No. 18-726

In The
Supreme Court of the United States

LINDA H. LAMONE, *et al.*,

Appellants,

v.

O. JOHN BENISEK, *et al.*,

Appellees.

On Appeal From The United States District Court For The District Of Maryland

JOINT APPENDIX
VOLUME II OF V (JA351 – JA611)

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Q. Good morning, Mr. Cueman, and thank you for being here with us today. Could you just state your name for the record?

A. Okay. Edmund R. Cueman. And my address is 1201 Woods Road, Westminster, Maryland.

Q. Great. Thank you.

MR. MEDLOCK: Sarah, I don't mean to interrupt. Can we get just who's in the room real quick?

MS. RICE: Yep. So I am Sarah Rice, and I'm an Assistant Attorney General with the State of Maryland. I represent the defendants in this matter.

MS. KATZ: I'm Jennifer Katz, Assistant [6] Attorney General, and I also represent the defendants.

MR. MEDLOCK: Stephen Medlock, and with me is Micah Stein, counsel for the plaintiffs and the witness.

BY MS. RICE:

Q. So just a few preliminary matters. I think today we won't be here that long so we'll try to get through without a break, but if you need one for any reason, just let me know, and we'll find a good place to stop.

A. Okay.

Q. Also, if I ask you a question and you don't understand my question, please let me know, and I'll try to ask it in a different way so that you understand.

A. Okay.

Q. If you don't hear me, just let me know, and I will repeat myself. Please also, just for the court reporter's sake, try to give verbal answers to questions. That will help out a lot. And I think that's it. I'm going to just show you this [7] document.

(E. Cueman Deposition Exhibit 1 was marked for identification and is attached to the transcript.)

MR. MEDLOCK: Do you want to do sequential numbers throughout to keep everything—across all the depositions just to keep everything organized? So, for example, if we would have three here and then we would start with 4 in the next deposition.

MS. RICE: Sure, if that would be your preference.

MR. MEDLOCK: Sure.

MS. RICE: I don't have a strong one, but that sounds just fine.

Q. Mr. Cueman, have you seen this document before?

A. I have.

Q. And what is it?

A. It's a Notice of Deposition of myself.

Q. Okay. Great. And Mr. Cueman, have you taken any medication today?

A. Have I what? [8]

Q. Taken any medication today.

A. Yes, I did.

Q. And what was that medication?

A. Lisinopril.

Q. And would that medication impair your ability to testify today?

A. It would not.

Q. And is there any other reason why you might not be able to testify today?

A. No.

Q. Okay. Thank you. Mr. Cueman, what's your employer? Who's your employer? Are you employed?

A. I'm sorry?

Q. Are you employed?

A. I am.

Q. And who's—

A. I'm self-employed.

Q. Great. And what do you do?

A. I'm a land planner.

Q. And what does a land planner do?

A. Well, a land planner in the public sector which I was in, I served for 33 years in the public [9] sector. In Worcester County I was the County Planning Director for five years and 24 years in Carroll County. And then when I retired in '95 I hung out my own shingle. And I've been doing that ever since, practicing professional planning in the private sector.

Q. And who are your clients?

A. I have private clients, I have had public clients. I still have some public clients. Like for example, the Town of Union Bridge I handle site plan review for them, comprehensive planning, requirements and other administrative duties that they may assign to me. For private clients I can be called as an expert witness to testify based on my professional experience. And I do work for non profits too like the Carroll County Land Trust. I serve as the easement coordinator for the Carroll County Land Trust and I also serve on the Board of Land Trusts.

Q. You mentioned serving as an expert witness in some types of cases. What kinds of matters would you serve as an expert witness? [10]

A. It would be municipal matters pertaining to rezoning or conditional uses for the Board of Zoning Appeals cases. That's generally the focus that I've had.

Q. And would your clients be individuals or corporations?

A. It could be both, yeah.

Q. And what is the highest level of education that you attained?

A. I have a Bachelor of Arts degree from Western Maryland College.

Q. Great. When did you first register to vote?

A. When did I first register to vote? When I was eligible and I think it was 1963.

Q. And where did you live then?

A. Pardon me?

Q. Where did you live when you first registered?

A. I lived in Snow Hill, Maryland.

Q. And what Congressional District did you live in then?

A. Then that would have been District 1. [11]

Q. And who was your Congressional representative?

MR. MEDLOCK: Objection. Vague as to time frame.

Q. Who was your Congressional representative when you first registered to vote?

A. I can't recall right now. I'm drawing a blank on that.

Q. That's okay.

A. I can see him. I can see his face. He was a big man and he was very much involved with the Chesapeake Bay. I think his first name was Tom. I'm sorry, it's too far back there and I just can't bring that up.

Q. I understand. I do not—I cannot recall 1963 either.

MR. MEDLOCK: Me neither.

Q. How long did you live in Snow Hill?

A. I lived there until I moved—my family moved when I was offered a job in Carroll County in 1971.

Q. Okay. Where did you live after you moved? [12]

A. I lived for about almost two years in Finksburg, Maryland. We rented a place to stay while I was getting a piece of property to build a home on and get the house built and we moved into the house in December of 1973.

Q. Okay. And where was the house?

A. It was at 1201 Woods Road, Westminster, Maryland.

Q. When you lived in Finksburg do you know what Congressional District you lived in then?

A. I was in the 6th Congressional District.

Q. And do you remember who your Congressional representative was then?

A. It was Goodloe Byron.

Q. And when you moved to Westminster what Congressional District did you live in?

A. That was the 6th District as well. The entire county was in the District 6th.

Q. Who was your Congressional representative?

A. Goodloe Byron and then when Goodloe died, he had a heart attack, his wife assumed the office and then when she ran she was also my representative [13] then.

Q. Okay. And who was your representative after?

A. After Beverly was Roscoe Bartlett.

Q. Okay. And who was your representative after Mr. Bartlett?

A. Who is it, who is the representative?

Q. Who was the next representative?

A. I think it's Delaney.

Q. Okay. And that's your current representative?

A. Yes.

Q. Okay. So I'm going to ask you to return to 1963 again, I'm sorry, or thereabouts when you lived in Snow Hill. So for the entire time that you lived in Snow Hill, how often did you vote?

A. As I recall, I didn't miss a vote. Any time an election came around I voted and, as I said, I was working as a public servant at the time so it would have been inexcusable not to vote, in my own mind anyway.

Q. And when you say that you voted in every [14] election do you mean all general elections?

A. Um-hum. Yes.

Q. And primary elections?

A. Yes.

Q. And what if there was a special local election?

A. I don't recall any special local election that I ever voted in. I just don't recall that there was any while I was in Snow Hill.

Q. Okay. So when you moved to Finksburg is that the same answer or what were your voting habits then?

A. Yeah, I voted. I have not missed a vote that I'm aware of and I don't remember any special elections either that were held that I voted in. I just don't recall any.

Q. And just so I understand completely, when you moved to Westminster was there ever a vote that you missed after you moved there?

A. No.

Q. If you recall were there ever any special elections held? [15]

A. I don't recall any and I think if you're defining a special election as one that's out of the ordinary, it's called forth for some reason, something has happened and I'll put it this way, if there have been any special elections that were called for and I would have been eligible to vote, I would have voted but I just don't recall any.

Q. That's fair. And I just want to make completely sure that I understand you and that it's on the record. So would that be the same answer even in the most recent elections in 2012?

A. Yes.

Q. And 2014?

A. Yes.

Q. And 2016?

A. Yes.

Q. Great. Thank you. Are you registered as a member of a political party?

A. I am.

Q. And which one?

A. Republican.

Q. And when did you first register as a [16] republican?

A. When I first registered. My family was republican and when I became eligible to vote I registered republican.

Q. And have you ever changed your party registration?

A. I have not.

Q. And have you ever had any affiliation with another party in any other way other than registering?

A. An affiliation?

MR. MEDLOCK: Objection, vague.

Q. Okay. Have you ever donated to another political party?

A. Not to another political party, no.

Q. Have you ever attended a meeting of another political party?

A. I have not.

Q. Have you ever voted for a candidate that is not a republican?

A. I have.

Q. And when was that? [17]

A. That was—I can tell you who I voted for. I voted—are you talking about any election I guess?

Q. In any election, yep.

A. I voted for Charles Smelser who was a Senator, one of the finest Senators Maryland has ever had. I voted for him and he was a democrat.

Q. Okay.

A. I voted for Richard Dixon who was my delegate from Carroll County and I voted for Goodloe Byron and Beverly Byron who were both democrats.

Q. Okay. And are those—is that a complete list of all the times that you voted for someone who was not a republican?

A. Yes.

Q. Did you vote for Roscoe Bartlett in the 2012—

A. I did.

Q. —primary?

A. One thing I will just to amend that previous answer if we're talking about voting for members of the Board of County Commissioners, there were

[18] democrats that I voted for there. The Board was made up of both republican and democrats but I did vote for some members of the Board of County Commissioners who were democrats.

Q. Which Board of County Commissioners?

A. The Carroll County Board of Commissioners.

Q. Okay. And do you know during what time period?

A. Yes, that would have been between 1973 and 1995.

Q. And do you recall any particular Commissioners who were not republican who you voted for?

A. Yes. Roger Mann would be one. John Joy would be another one. I think that's it. I can't recall any others. Those two specifically.

Q. Great. Do you consider yourself to be politically active?

MR. MEDLOCK: Objection, vague.

A. I'm politically interested. I'm not an activist. I don't go around telling other people how to vote but I have my opinions and I do maintain [19] a pretty high level of interest in what's going on.

Q. And how do you maintain that interest?

A. I maintain it because having served, I guess when you serve in a county for 24 years as a County Planning Director and then you make maybe the mistake of not retiring somewhere else just, you know, hit the road, so you're living in the place you have been working for for a long time, so I pay attention to the newspapers and what's going on and local, in a local sense. And I do care about the country. I have a 12 year-old grandson and I'm very concerned for him and, you know, where we're going as a country. So it's just my nature, I'm not politically disinterested kind of person and that's

who I am. My wife makes sure that that doesn't get out of control.

MR. MEDLOCK: That sounds familiar.

Q. Have you ever attended an event held by your Congressional representative?

A. Yes. All the—an event is pretty broad and I would say mostly they would be meetings. For example, if I'm the County Planning Director and we [20] were attempting to construct a reservoir under Public Law 566 and Goodloe Byron is my representative and he has the money lined up in Washington for this project but with public hearing process you have to bring in everybody to explain what's going on. So that's an event that he would attend and then I would end up being there.

Q. So let's narrow it a little bit I think for purposes of this conversation. I'm interested in events that you may have attended held by your Congressional representative or with your Congressional representative not in connection with your work.

A. Okay.

Q. So outside of work.

A. Yeah. They border more on I guess you could say the social. Like we have the Carroll County Farm Museum and so whether it's Fall Harvest Days or some other function that's going on, that will typically draw your representative to it as well as state senators and delegates that will come, but it's not like a political meeting per se, you know, [21] it's more on the social side of it and that wouldn't be connected with my work.

Q. Sure. So I mean taking that kind of event would you ever attend an event like that to see your Congressional representative?

A. An event like what?

Q. How you described the farm festival.

A. Oh, yeah. Yeah, I would go because even if I wasn't the County Planning Director, even if I was retired, if I had nothing better to do would go because one of the problems with our country today, I shouldn't be doing this, but anyway, it's good to meet and greet your representatives, to see them in the flesh, and they don't get out enough to do that. They don't get out of Washington enough to do it.

Q. So you mentioned before when you were talking about these kinds of events that maybe you might have attended one with Goodloe Byron; do I understand you correctly?

A. Yes.

Q. So did you attend any of that kind of event with Beverly Byron? [22]

MR. MEDLOCK: Objection. Vague.

A. I can't recall a specific one but I had interactions with Beverly Byron just by virtue of my job, and sometimes, you know, a public servant's job doesn't end at 4:30 on a Friday so if something happens on the weekend and you have a representative coming to your county, it was almost expected that you might want to be around when they were, you know, coming to the county.

Q. Okay.

A. It was an opportunity to chat about things that were important to the county.

Q. And what about with representative Bartlett?

A. I would say the same. He used to come if there was a parade in Westminster, and Westminster is a big

parade to him, he'd be there in the parade on foot, not in a car riding. He'd walk the whole parade.

Q. And have you attended such a meeting or an event with representative Delaney?

A. I have not.

Q. And why haven't you attended a meeting with [23] representative Delaney?

A. I haven't seen him. I have no knowledge as to whether he's been in the county. He may have been but I haven't had any knowledge of him being in the county.

Q. And do you still attend parades in Westminster?

A. I do. Um-hum.

Q. Have you ever volunteered on a Congressional campaign?

A. I have not.

Q. Have you ever contacted your Congressional Representative Constituent Services?

A. I have. Um-hum. Yes.

Q. And on what occasion did you do that?

A. I did that with Congressman Bartlett and I was looking into a passport situation for a family that's in the Philippines.

Q. And have you had occasion for any other Congressional representative to contact Constituent Services?

A. For Constituent Service? [24]

Q. Yes.

A. Yes, we—I think this would come under that but the Carroll County Land Trust was very frustrated with some decisions that had been made in Washington by the Attorney General's Office when it came to the ground rules for administering federal

farm and ranch land protection funds. The Land Trust had been successful in securing almost two million dollars worth of money because we existed as a Land Trust, and it was a really good program because this was money that we could use to match against money that the county would put up.

Long story short, somebody started fooling around with the program and they started requiring things that our Land Trust didn't want to be in the position of asking any landowner to sign a document that would have this, what we considered very offensive language. It was like you were involved in a condemnation case. So we were kind of furious about that because we're on a goal, a mission up there to get a hundred thousand acres of land preserved and this was going to slow us down. It [25] wasn't the only program but it was—so we went to our congressman who was Roscoe Bartlett. We went through his office. He had an office in Westminster.

Q. Um-hum.

A. And he set up meetings in Washington and he brought people in and we went down and this was hashed out and discussed and so forth. And so that's the last time I have a vivid recollection of, you know, Constituent Service, and not for me directly but for the county, the Land Trust. Not even the county but the County Land Trust.

Q. Do you remember any other time that you contacted even before that about an issue that was important to you, your Congressional representative?

A. I don't remember, you know, where you would get very exercised about something and then you want to call them and talk. Not directly to the con-

gressman, I can't think of any, and we would probably be talking about Roscoe Bartlett probably because we're talking the last what, decade or so?

Q. Well, really any time that you remember. [26]

A. Yeah. Nothing jumps out at me. And I think part of the reason is because I was fortunate enough to maybe see or have contact with them. I wasn't, you know, commuting to Baltimore every day and away from home or I was pretty close to home.

Q. Okay. Do you remember what year the meeting with Roscoe Bartlett about the Land Trust issue was?

A. I don't remember the year but I'm going to say it's probably getting close to 10, 8 to 10 years back there.

Q. Okay. When was the first time that you became interested in redistricting?

A. It started with me in the late 60s and when I was in Snow Hill. At that time something happened that really disturbed me and that was when there were court cases and a Supreme Court decision which did not involve the State of Maryland, but as a result of that decision the State of Maryland went about reorganizing its legislature and then specifically the Senate because originally when Maryland was founded and they created and they had their counties that made up Maryland, they all had [27] at least one Senator and that transpired all the way on up until this point in Maryland's history when they changed how the Senate is organized. And my recollection is that Baltimore City had three Senators. Every county had one. So you had roughly 26, if I'm right on my numbers, that composed the Senate. And it was essentially a carbon copy of our federal system where every

state has two Senators and as we know, that's not what we have today. So that bothered me then and it's bothered me ever since.

Q. Do you remember what the Supreme Court case was called?

A. Pardon me?

Q. Do you remember the name of the case that you mentioned?

A. I remember I have this brought to my attention because I couldn't remember here of late but I think when it started it was Carr versus somebody, and then there was a companion case that came into play in some way. So I'm very hazy on it and when I get time because of what I'm doing here [28] now, when I get some time I'm going to—I'm going to try and get into that case and read it.

MR. MEDLOCK: Always good to read the cases.

THE WITNESS: Yeah.

Q. Favorite pastime of lawyers. Was it Baker V Carr?

A. Yes, I think that's what it was.

Q. And so that was about your interest in legislative redistricting, right?

A. Yes, and I will volunteer this. When I say I was concerned about it, I wrote a letter to Everett Dirksen who was a senator from Illinois and I put my concerns on paper and I got a reply from him that was not one of these staff written things. It was about three sentences long but it had his real signature on there. It was signed with a fountain pen and I've got that letter in my special papers file at home because I was a big fan of his.

Q. Yeah.

A. He was very upset about it too.

Q. Yeah.

A. He was not happy with the Supreme Court. [29]

Q. Do you remember a time that you became interested in Congressional redistricting rather than legislative?

A. Yeah. I had no concerns about Congressional redistricting until very recently. After the last—well, it was 2011 I believe when it followed the 2010 census and then I, you know, got concerned about that, yes. When it happened.

Q. When you say when it happened, do you mean—could you be more specific about what you mean?

A. Well, just that I woke up one day and realized I wasn't in the 6th Congressional District. A new map had been prepared and apparently adopted and so it was the result of, you know, just the changed boundaries and the realization that they had been changed.

Q. Do you know when that was you had that realization?

A. I just know it was in 2011 sometime. I'm not even sure of the month when it happened and there would have been a duration of time after it happened to, you know, understand what had happened. [30] You know, like sometimes something happens but you don't catch up with it and really realize what—you know, what the change really was.

Q. Were you aware that there was a referendum regarding the redistricting plan?

A. Now that you mention it, I sort of recall there was one but that sort of faded off my memory but I think you're right. I mean I believe there was one.

Q. And do you remember did you vote in favor of the referendum?

A. I would have, yeah. I wasn't happy with what had been done.

Q. Okay.

A. If the referendum was for the—if it was—I don't know what—

Q. Okay. Let me clarify just to make sure that we're all clear.

A. Yeah.

Q. I don't want any confusion. If there was a vote for or against the plan on the ballet how would you have voted? [31]

A. I would have voted against the plan, yeah. I would have voted against it.

Q. But do you have a specific recollection of doing that?

A. I would have had—yes, I would have had that opportunity to do that and I would have voted against that, yes.

Q. So you explained about the letter that you wrote when you first became interested in redistricting. Have you written any other letters since that time—

A. No.

Q. —about redistricting?

A. Nope.

Q. Have you ever gone to a public hearing about redistricting?

A. If I have I don't recall going.

Q. Have you ever submitted a comment about a redistricting plan?

A. I have no recollection of having submitted a comment.

Q. Have you ever called an elected [32] representative about redistricting?

A. No.

Q. And have you ever gathered signatures on a petition about redistricting?

A. I have not.

Q. Other than joining this lawsuit have you taken any action about the 2011 plan after its passage?

MR. MEDLOCK: Was that between—you're referring to the Congressional redistricting plan?

MS. RICE: Congressional redistricting plan.

A. I'm sorry, can you say that again? It's not your fault, my hearing is a little—

Q. I'm a little soft spoken so it's a combination of the two. So after the plan was passed, and we spoke about that and how that was the first time you became aware of Congressional redistricting; is that right?

A. Yes.

Q. I just don't want to mis-summarize what you said. Have you taken any actions—other than joining this lawsuit, have you taken any other [33] actions?

A. No. Now I understand. No, I have not.

Q. Okay. How did you first hear about this lawsuit?

MR. MEDLOCK: I caution you without going into anything you've talked to your attorneys about after there was a representational agreement but before that, you can go into that.

A. Okay. I received a phone call from a friend of mine who's name is Sam Riley and he informed me that

there was a case that was being developed and he asked me whether I'd be willing to be a plaintiff in this case. He gave me a little more information, you know, about what was happening and the upshot of it was I agreed to do that.

Q. And when was that conversation?

A. That was about a year ago. It was in January of last year.

Q. And how are you friends with Sam Riley?

A. Sam Riley is a—he's an attorney himself but there's no connection between his being an attorney and me. I know him, I've known him since [34] he was in 4H and he's the president of the Union Mills Homestead Foundation. He's a Shriner too. That's another thing. And so he's a valued friend and he's the kind of person if he calls up and asks you if you'd be willing to do something like this you just have to figure out whether, you know, you have the time to do it. So and I guess my feelings about districting, you know, which I think everybody should have some feelings about it, I said sure, I'll do it.

Q. And so what are those feelings?

A. Well, I guess the feelings are when your instincts tell you that something is going on that doesn't feel right, that's the feeling I had after I got the—the 6th District's been around from the beginning of Maryland's history. The counties that lie between the Mason Dixon Line and the Potomac River, Garrett, Allegheny, Washington, Frederick, Carroll, and even though the northern portion of Baltimore County was in the 6th District and it went over and included a pretty big part of Harford County along the Mason Dixon Line, it's just a [35] cohesive entity, and when you wake up some day

and you realize that the shape of this thing is what it is now, it looked to me like something didn't smell right. I just couldn't figure out how anybody could carve out something like that. So I became curious about it. And you read newspapers, it's not like this has not been discussed or people have made their opinions known about it, and to connect dots that it had been a very strongly held district, held by a republican in recent years, and prior to that it was democrats.

But what it really is it's not so much whether in my mind over these years I will draw a line up to maybe the present, but I will say if you're looking back it was not about democrats and republicans. It was about people who were generally conservative in their thinking, advocates of small government, being frugal, not having high tax rates. You can run through these counties you can find that kind of thinking up and down, you know, and all around.

So it just—and the county is—in this [36] state the county has always been a very significant entity. The counties are very—you know, they're—how shall I say? You identify with your county. It's not like New Jersey or any of the places where you have townships that break up the county and that sort of thing. The county government is a strong form of local government, and in the case of these counties that I just mentioned there's a bond that exists there. Over the years and all the years that I served, they met. They didn't have to but they had common values and problems and things, you know, that caused them so there's that kind of cohesiveness that's just been sitting there.

And my feelings were that every time there's a census, yeah, you may have to make some adjust-

ments. You can't freeze it in time but this is—the nature of what took place there was—it just like chopped up. It was a chop job. I don't know how—I mean what can express what took place but to say that I was disoriented or felt disconnected. Those are the kind of words that go into my own speaking for myself. I have absolutely [37] no connection with what is in this district except the portions of Frederick that were thrown in.

If you take a good hard look at all these counties that made up the six our entire county was in, and then someone went up into Westminster and they took the I think it's 3rd election district. It's the district that surrounds Westminster, took everything south to Mount Airy and to Sykesville or Freedom, took that all out and dropped it and hooked it up. You have that little point in Montgomery County that comes up and just touches our border about like a dot. It's where Howard and Carroll and Frederick all come together. Four corners they call it. And they funneled all that of our county down into what they were calling the 8th and what was left, that got tossed into the 1st District.

So where I live at 1201 Woods Road if you went a half a mile say, I could be in the 1st District and I could be back in Snow Hill again in Carroll County because the 1st District comes -- runs all along the Mason Dixon Line going east and then it comes down onto the Eastern Shore all the [38] way down to Virginia.

And so you asked me about my feelings, those are my feelings. And we have so many things that disconnect us as citizens from our representatives, it's worse now than it ever was I think. A person, an-

other attorney who is a good friend of mine, his name isn't important but he said—

MR. MEDLOCK: Just to stop you. If he's representing you then you shouldn't talk about conversations you had with another attorney.

THE WITNESS: Okay. I retract that.

Q. Yeah. If it was while he was representing you in a matter. If you were just speaking as friends you can go on.

A. Yeah.

Q. Okay, thank you. Oh, I wanted to clarify one of the things that you were talking about. You said that the unity that you felt with the fellow members of your county was not about democrats or republicans but more of a general conservatism that you shared, but I think I heard you say, and this is what I just want to clarify, that more recently you [39] didn't feel that that was the case. So could you tell me when that feeling changed?

MR. MEDLOCK: Objection. Mischaracterizes his testimony. Go ahead.

Q. And please correct me if I didn't get that correct.

A. No, I think you—what I'm saying I think my own voting record shows that just because I'm registered republican I don't necessarily vote a party ticket. I'm a conservative before—I guess me and I think a lot of other people are conservatives first and then they are party affiliated secondly. And so that's why you see in the history I guess of the district there have been both democrats and republicans who have represented it.

There's a point, this point I was referring to, I think there's been a drastic change between the parties today as compared to what they were in my

time frame, you know, we're going back to the '70s and the '80s and '90s. I'll just put it this way, the democrat party is not today what it was in [40] 1970. It's not the same political party. And so that's where it can put people I think more in a position of what choice do you have when you are going to the polls to vote in a district that still tends to be very conservative.

Q. So I'm interested in when you think that changed.

A. I don't think it was—I don't think it was like any one day or maybe the word point is not a good one. It didn't swing—I think it's been a gradual, a gradual. I would say probably you would have to go back—you could go back 10 years maybe and say, you know, it was starting. I don't really have a good handle on it but all I know is that in the last several years it's just a totally different party.

And you know, you could say something similar about the republican party. They're not the same either but there's no comparison whatsoever in terms of who's hung around to kind of be conservative and represent the people who tend to be conservative. So that's just how I see it. [41]

MR. MEDLOCK: Do you want to take a break if you want to confer?

MS. RICE: That's what I was going to say. Why don't we take a break.

(A recess was taken.)

BY MS. RICE:

Q. I just have a few more questions. So I just want to go back over a little bit that we did before because I'm just afraid that we might not have been clear. So we talked—because at times I think we—you had talked about or maybe I asked you questions

about John Delaney, but I wanted—and so to clarify, we also asked you a specific question about the 2012 election and whether you voted for Roscoe Bartlett in the republican primary. So I wanted to give you a chance to clarify that answer because it's my understanding that you live in the 8th Congressional District now; is that right?

A. Yes, I am.

Q. Right.

A. Yes.

Q. Okay. [42]

A. Okay. Yes, so I couldn't have voted for him.

Q. Right.

A. I guess is what we're saying.

Q. Well, yeah. I don't want to mislead you and make sure --

A. Yeah.

Q. —that—

A. No. Thank you.

Q. So have you ever been to an event with Chris Van Hollen?

A. I have not.

Q. And have you ever talked to Mr. Van Hollen?

A. I have not.

Q. Have you had any occasion to contact him for Constituent Services, his office?

A. I have not.

Q. Okay. Great. Those are our questions.

A. The only time I ever—

MR. MEDLOCK: Go ahead.

Q. Go ahead.

A. Chris used to be in the Maryland legislature [43] but I had nothing—you know, I knew him. I might have waved to him or said hello, but at that time this wasn't even on the radar screen because that's going back to, you know, prior to him even serving in Congress.

Q. Great.

A. Yeah.

MS. RICE: Okay. That is all that we have for you guys.

MR. MEDLOCK: I don't have any other --

THE WITNESS: Do you want to mention that one about Delaney?

MR. MEDLOCK: Yeah. So I guess I will ask one that builds on what you were talking about.

EXAMINATION BY COUNSEL FOR THE PLAINTIFFS BY MR. MEDLOCK:

Q. So I want to be really clear. When you were redistricted in 2011 the area you were in moved from the 6th District to the 8th District, right?

A. Yes.

Q. And in 2012 when you were voting your choice was between Chris Van Hollen and his republican [44] opponent and anyone else that was running against Mr. Van Hollen on the ballot, right?

A. Correct.

Q. And in the last election it would have been Jamie Raskin and anyone running against Mr. Raskin?

A. Correct.

Reply Expert Report of Dr. Peter Morrison

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

O. John Benisek, et al.,

Plaintiffs,

vs.

Linda H. Lamone, et al.,

Defendants.

Case No. 13-cv-3233
Three-Judge Court

REPLY EXPERT REPORT OF DR. PETER A. MORRISON

May 22, 2017

I. INTRODUCTION

1. My name is Dr. Peter A. Morrison. I previously prepared a report in this matter dated April 7, 2017 (my "Initial Report"). My qualifications are included in that report and are not repeated here.

2. My original assignment in this case was to ascertain whether the boundaries of the Sixth Congressional District that were adopted by the Maryland General Assembly in 2011 can be explained by legitimate districting considerations. In particular, I was asked to assess whether the boundaries of 2013

CD6 can be explained by the maintenance of communities of interest. I also was asked to determine whether there is objective demographic evidence supporting the conclusion that the Maryland General Assembly specifically intended to burden the representational rights of Maryland Republicans because of how they had voted in the past and the political party with which they had affiliated.

3. I have been asked by counsel for Plaintiffs to comment on the theories and analyses presented in the reports of Prof. Allan J. Lichtman, Secretary John T. Willis, and Mr. William S. Cooper to the extent that they are relevant to my Initial Report. I also have been asked to review Prof. Lichtman's criticisms of my report and his own conclusions, to evaluate their relevance and reliability with reference to standard demographic methods and data.

4. In preparing my Initial Report, I reviewed documents, depositions, interrogatory responses, and responses to requests for admissions and drew upon data from the 2010 decennial census and the annual American Community Survey. In addition to the materials considered in my Initial Report, I have reviewed these Lichtman, Willis, and Cooper reports, the documents relied upon in those reports, and depositions that have been taken since I submitted my Initial Report. The opinions expressed in this report are based on my review of this information as well as my training and experience as a demographer and sociologist.

II. SUMMARY OF OPINIONS

5. Based on my analysis to date, I have reached the opinions that I expressed in my Initial Report, as well as the following additional opinions:

   a) Nothing in the Lichtman, Willis, or Cooper reports has caused me to change any of the opinions that I expressed and explained in my Initial Report.

   b) Mr. Cooper and Secretary Willis offer no critique of the methodology, data, or conclusions contained in my initial report. Only Prof. Lichtman attempts to critique the reasoning behind my demographic conclusions and methodology.

   c) Prof. Lichtman's criticism of my Initial Report is largely irrelevant. He neither challenges any of my conclusions nor questions the data and analyses supporting those conclusions.

   d) Prof. Lichtman appears to have misconstrued what is at issue in this case. As Plaintiffs have explained to me, the issue is whether State officials sought to impose a burden on a group of citizens in response to their engagement in activity protected by the First Amendment, and whether they succeeded in doing so.

   e) Prof. Lichtman's criticism of my Initial Report as unscientific is misplaced. Both Prof. Lichtman and I each rely upon and reason in line with distinct scientific models. My reasoning abides by the well-defined model for drawing conclusions from quantitative data. I pose a null hypothesis, and subject it to possible rejection by empirical data. Scientific null assumptions are used to advance an alternative to the null proposition.

f) Prof. Lichtman and I draw on different disciplines to reach our conclusions. While I am a demographer, Prof. Lichtman is an historian. His reasoning follows a different scientific model befitted to historical accounts and anecdotal evidence, not objective demographic data.

g) The issues Prof. Lichtman raises about "community of interest" are unfounded. I have relied upon Census Bureau definitions of established communities: incorporated cities and towns and unincorporated Census Designated Places (CDPs). Demographers such as myself recognize these as standard definitions of established geographic communities of interest.

h) I have examined the existing evidence on daily commuting patterns on I-270. Census Bureau data concerning patterns of commuting and the deposition testimony in this case lead me to conclude that there is no community of interest based on commuting patterns on I-270.

i) Contrary to Prof. Lichtman's doubts, objective demographic facts can be used to identify the plausible intentions of the Maryland legislature and its map-makers. When supplemented by the discovery record, my analysis can be used to form a conclusion regarding the intent of the Maryland legislature and its map-makers.

j) Prof. Lichtman mischaracterizes my analysis in this case and in *Fletcher v. Lamone*.

III. Prof. Lichtman Challenges None Of My Central Conclusions Or Supporting Data

6. In my Initial Report, I reached the following conclusions, which Prof. Lichtman does not dispute:

a) First, the reconfiguration of CD6 cannot be explained by legitimate districting considerations, such as the preservation of existing communities of interest. As shown in Table 3 (on page 67) of my Initial Report, the 2011 Congressional Plan dismembered most established communities of interest in CD6. In the prior version of CD6 (used for the 111th Congress), 4 of 35 (11%) communities of interest (also known as "Census Places") were split by the boundaries of the Sixth District. In the current version of CD6 (used for the 113th Congress), 13 of 22 (59%) of communities of interest were split by the boundaries of the Sixth District. Prof. Lichtman does not challenge this demographic evidence.

b) Second, objective demographic evidence supports the conclusion that the Maryland General Assembly specifically intended to burden the representational rights of Maryland Republicans. The General Assembly did so by interchanging approximately 375,000 residents (nearly half the original CD6 population). That excessive interchange of 375,000 residents was over 20 times greater than the mere 17,249 reduction of the district's residents necessary to reapportion the total population of CD6. Prof. Lichtman does not challenge this demographic evidence.

c) It was readily possible to reapportion the total population of CD6 without splitting so many existing Census Places. The post-redistricting increase in non-intact Census Places (from 11% of all communities to 59%) strongly indicates that the Maryland General Assembly and its map-

makers had motives other than rebalancing total population.

d) One such plausible motive was to remove Republican registered voters and scatter them across other districts, so as to burden their representational rights. This motive has been confirmed by the testimony of high-level Maryland officials, including former Governor Martin O'Malley.

e) Prof. Lichtman questions my inferring legislative intent from objective demographic evidence. My conclusion as originally stated, however, is not in dispute: Objective demographic evidence does support this plausible motive. The newly-configured CD6 did, in fact, result in a wholesale replacement of Republican registered voters with non-Republican ones. Prof. Lichtman does not challenge this objective demographic evidence, nor does he challenge the plausibility of that motive.

f) Third, my partisan gain and loss accounting reveals a telltale statistical footprint presenting unambiguous evidence of partisan intent as the predominant motivating factor for dismembering CD6. The legitimate aims of equalizing the District's total resident population and respecting existing communities of interest insofar as possible were subordinated in favor of that single-minded partisan intent. Prof. Lichtman does not challenge these objective demographic truths, nor does he challenge my conclusion that this statistical footprint presents "unambiguous evidence."

IV. Prof. Lichtman Misunderstands The Point Of My Initial Report

7. Prof. Lichtman criticizes me for examining only CD6.[1] Evidently, Prof. Lichtman misunderstands the scope of my analysis and the questions that I was retained to answer.

8. It is my understanding that the opinions and analysis in my Initial Report stem from the central issue in this case. That issue, I was told, derives from the "First Amendment retaliation" doctrine and the following questions: Did state officials act with specific intent to impose a burden on a group of citizens in response to those citizens' engagement in activity protected by the First Amendment, and did they succeed in imposing such a burden?

9. I set out to analyze demographic questions related to this legal inquiry, not those questions that Prof. Lichtman faults me for ignoring. I did so by examining changes just to CD6, not the entire 2011 redistricting plan. The two questions I addressed are:

   a) Can the new boundaries of CD6 be explained by legitimate districting considerations, in particular by the maintenance of existing communities of interest?

   b) Does objective demographic evidence support the conclusion that the Maryland General Assembly intended to burden the representational rights of Maryland Republicans because of how they had voted in the past and the political party with which they had affiliated?

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[1] Lichtman Rep. at 3.

10. If respect for communities of interest was a prominent consideration in reapportioning the total population of CD6, the map drawers easily could have drawn a different district—one that closely resembled the district that existed between 2001 and 2011 and that respected its historical continuity.[2] Prof. McDonald's Opening Expert Report, which confirms my conclusions, demonstrates this point. He presents an alternative, illustrative map confirming that the population of the Sixth District could be reapportioned, without ripple effects, while respecting existing communities of interest.[3] Based on Prof. McDonald's analysis, and my own review of relevant demographic factors, I conclude that there was some other explanation for why CD6 was drawn as it was.

V. My Scientific Model Befits Drawing Conclusions From Quantitative Data

11. Prof. Lichtman characterizes my Initial Report as "result-driven," and, therefore, unscientific and unreliable.[4] He is mistaken.

12. Prof. Lichtman is an historian, not a demographer. Our different disciplines dictate the use of different

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[2] For example, Frederick County was included (in its entirety) in the Sixth Congressional District continuously since 1872. However, the 2011 redistricting split Frederick County's population roughly in half between the Sixth and Eighth Congressional Districts. Likewise, while Carroll County had been included in the Sixth Congressional District continuously since 1966, the redistricting removed it from the Sixth District entirely and split its population between the Eighth and First Districts.

[3] Opening Expert Report of Prof. Michael P. McDonald, PhD, dated April 7, 2017.

[4] Lichtman Rep. at 11.

models and data. Prof. Lichtman reasons from a different scientific model befitted to historical accounts and anecdotal information, not hard demographic data. I rely upon quantitative demographic data and methods.[5]

13. My professional field of applied demography encompasses a diverse set of endeavors that draw on demographers' specialized knowledge, technical skills, and extensive familiarity with relevant data sources.[6] Data are at the heart of applied demography, which is why its practitioners devote considerable effort to understanding the limits imposed by the data they use. In my field, an established model for drawing conclusions from quantitative data poses a null hypothesis, denoted as H_0, then subjects that null hypothesis to potential rejection by empirical data. That is how I have addressed the two questions above.

14. My first step was to identify available data for subjecting the null hypotheses to empirical test. I settled on the Census Bureau's measures of established geographic communities, detailed below.

A. Census Bureau Measures Define Established Communities Of Interest

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[5] Prof. Lichtman criticizes me for "pursuing [a] historical inquiry." (Lichtman Rep. at 12). Again, Prof. Lichtman appears to misunderstands my Initial Report. I offered the factual bases for my opinions including the history of how Maryland's Congressional Map was drawn. These facts confirm the demographic analysis that I offer in my Initial Report. Determining whether the facts supported my analysis was not an error, it is sound science.

[6] See Peter A. Morrison, "Continuity and Change Across the Population Sciences," access at: www.researchgate. net/publication /316999486_Continuity_and_Change_Across _the_Population_Sciences.

15. In my Initial Report, I explained that "the most clearly recognized communities of interest center on the residents of established communities, such as incorporated cities and towns and Census Designated Places."[7] I elaborated as follows:

> The US Census Bureau defines such established communities collectively as Census "Places," recognizing that their residents share well-defined commonalities of interest tied to place. Census Designated Places (CDPs) have been recognized and identified in each decennial census since 1980 as the counterparts of incorporated cities, towns, and villages. CDPs are populated areas that generally include one officially designated but currently unincorporated small community, for which the CDP is named, plus surrounding inhabited countryside of varying dimensions and, occasionally, other, smaller unincorporated communities as well.[8]

16. Current Census Bureau criteria require that a CDP name "be one that is recognized and used in daily communication by the residents of the community" (not "a name developed solely for planning or other purposes") and recommend that a CDP's boundaries be mapped based on the geographic extent associated with inhabitants' regular use of the named place.[9]

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[7] Initial Report, ¶ 138.

[8] *Id.*

[9] *Id.*; *see also* US Census Bureau, "Geographic Terms and Concepts – Place," https://goo.gl/T7aKiL (last visited April 5, 2017).

17. My next step was to formulate the null hypothesis to be challenged by the Census Place data: "The newly configured CD6 respects existing communities of interest."

18. To test this null hypothesis, I compared the number and percentage of Census Places that were split before CD6 was drawn and after CD6 had been reapportioned. That comparison rejects *Ho* decisively: Far more Census Places (or, communities of interest) were split following redistricting than beforehand. Specifically, 59% of the 22 Census Places within the 113th CD6 were split, whereas only 11% of the 35 Census Places within the 111th CD6 were split. Such an extreme difference leads to the conclusion that respect for communities of interest was disregarded.

B. Commuters Are Unrecognizable As A "Community Of Interest" In CD6

19. As I pointed out in my Initial Report, the State of Maryland's justification for attaching portions of Montgomery County to CD6 was to respect an *existing* purported "community of interest."[10] Citing testimony from certain GRAC Hearings and a portion of Senate President Miller's deposition, Prof. Lichtman claims that commuting patterns on I-270 between Montgomery County and Frederick County justified the new boundaries of CD6.[11] Prof. Lichtman misconstrues this testimony. In fact, demographic data shows that commuter flows cannot justify the new boundaries of CD6.

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[10] Initial Rep. at ¶¶ 136-139.

[11] Lichtman Rep. at 15-23.

20. To be clear, I do not deny that I-270 is used by some commuters to travel from Frederick County to Montgomery County or the District of Columbia. That is not the question. The question is whether this flow of commuters, and any other relevant factors, justify creating a new community of interest that encompasses Western Maryland and portions of Montgomery County, including Census Places such as Gaithersburg, Germantown, Potomac, Aspen Hill, and Derwood. Plaintiffs argue that this DC-bound commuter population is a vital "community of interest," which justified adding a portion of Montgomery County to CD6 and retaining only a portion of Frederick County in the newly-drawn CD6. This is not the case. As I point out in my Initial Report:

> This "community of interest" justification fades in the face of US Census Bureau data on journey to work (see Table 2). Only 21.3% of workers living in Montgomery County commute to a job in DC; most commute to jobs located *within* Montgomery County (59.4%) or in neighboring Frederick, Howard, Anne Arundel, or Prince George's Counties. Among workers in Frederick County, a miniscule 3.4% commute to a job in DC; and in Washington County, just 1.1% do so.[12]

21. Even were one to regard workers across a region who commute to jobs within that region as a weak "community of interest," that community cannot justify splitting the majority of established Census Places within CD6. As I note in my Initial Report:

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[12] Initial Rep. ¶ 137.

The data in Table 3 discredit any suggestion that a purported shared interest among a small fraction of resident commuters could justify splitting the majority of established Census Places within the 113th CD6. Even granting the existence of that purported shared interest, its significance pales relative to the collective shared interests of the 13 established Census Places whose boundaries ended up being split in the 113th CD6.[13]

22. ***Senate President Miller's Testimony.*** Prof. Lichtman's reliance on Senate President Miller's testimony is misplaced for several reasons:

    a) Although Senate President Miller justified the new boundaries of CD6 based on commuting patterns on I-270, Senate President Miller testified that he did not review any data concerning commuting patterns on I-270 before voting on the Congressional map.[14] Nor did Senate President Miller recall asking to see such data or reviewing it.[15] Other witnesses, such as Governor's Redistricting Advisory Committee chair, Jeanne Hitchcock, did not recall seeing any data regarding commuting patterns on I-270 during her time on the GRAC,[16] or requesting such data.[17] When asked "Did you at all consider when voting on the proposed congressional map commuting patterns on I-270?," Michael Busch, the

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[13] *Id.* at ¶ 144.

[14] Miller Dep. at 20:2-8.

[15] *Id.* at 20:16-22:1, 44:17-45:11.

[16] Hitchcock Dep. at 60:1-62:3.

[17] *Id.* at 171:2-15.

Speaker of the Maryland House of Delegates and a member of the GRAC, testified, "No. It never—never crossed my mind."[18] Speaker Busch went on to testify that he never asked for data concerning commuting patterns on I-270 and that he did not recall anyone else asking for such data.[19] In fact, although the GRAC was provided with several hundred pages of Census data and briefing materials,[20] these materials contained no information regarding the purported "I-270 Corridor,"[21] and Ms. Hitchcock did not request any separate briefing materials regarding the I-270 corridor.[22]

b) Importantly, Senate President Miller's testimony gets that very process of redistricting backwards. Redistricting is supposed to maintain and respect existing communities of interest, not manufacture new communities of interest. Senate President Miller did not testify that the GRAC and General Assembly were respecting *existing* communities of interest. Instead, he testified that the legislature and its map-makers created a *new* community of interest by including southern Frederick County and portions of Montgomery County in the same congressional district.[23] Creating a purported new "community

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[18] Busch Dep. at 100:12-16.

[19] *Id.* at 100:17-101:5.

[20] *See* Hitchcock Dep. Ex. 104.

[21] Hitchcock Dep. at 169:11-19.

[22] *Id.* at 169:20-170:1.

[23] *See* Miller Dep. at 143:19-144:29 ("Q: Could the 6th Congressional District have been drawn in such a way as to keep Frederick County intact? A: Not if you keep the Potomac River Corridor

of interest" is wholly different than respecting one that actually exists, based on hard demographic data. Senate President Miller's "community of interest" envisions district lines drawn so as to connect economically disadvantaged communities in one section of Maryland with prosperous urban communities in another section. Such district lines delineate no existing "community of interest." Rather, they artificially join residents with distinctly different interests, who reside in established communities of interest (specific established Census Places) in one or another section of the state.

23. ***GRAC Hearing Testimony.*** Prof. Lichtman's reliance on select portions of the oral testimony offered before the GRAC is also misplaced:

    a) Prof. Lichtman's analysis assumes that the GRAC changed the borders of CD6 in response to comments received at certain public hearings. However, the chair of the GRAC, Ms. Hitchcock, did not recall relaying any of this feedback to anyone.[24]

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or the 270 Corridor. Q: So it's your testimony that you can't keep Frederick County intact if you want to keep the I-270 Corridor or the Potomac River Corridor intact as well? A: And also enjoy the benefits of economic development from Montgomery County. Q: When you say enjoy the benefits of economic development from Montgomery County – A: Right. Q:— how does this map spur economic development? A: Well, it creates a community of interest from the poor areas with those that— developing areas with those areas that are developed, and it creates very— for example, these areas are very challenged economically. Q: So you're referring to Garrett, Allegany and Washington? A: Yes.").

[24] Hitchcock Dep. at 171:22-173:10.

b) Prof. Lichtman focuses on the oral testimony offered at GRAC Hearings, but he ignores written comments that the GRAC received that are contrary to his analysis. Such as:

- "This 'plan,' especially the gerrymandering of the sixth congressional district[,] is as subtle as being stuck in the face by a baseball bat."[25]
- "To lump in a portion of Montgomery county with the remainder of the proposed 6th is ludicrous. The have a complete different set of problem just because of their population density. The rural counties of Carroll, Fredrick, Washington and Allegheny have a completely different set of problems. . . . We need somebody who knows the people who live in rural areas and their needs, hunting, limited government overreach, farming, etc."[26]
- "It would appear that you are adding just enough Montgomery County to negate the Republican voice of the western counties. The areas are as different as the people and no one person can effective[e]ly represent both of those areas in my opi[ni]on[.]"[27]
- "This plan is just an attempt to eliminate the conservative voters from really having any say in Western Md. politics. There is no[] inherent connection with Montgomery County and Frederick County just because

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[25] MCM002437.

[26] MCM002240.

[27] MCM002240.

of I270. The people of Frederick County will not stand for this attempt to reduce our influence on how we as voters feel. Please don't [vote] for this new district map."[28]

VI. Ample Testimony Corroborates My Demographic Conclusions

24. Prof. Lichtman criticizes me for using demographic data and methods to reach conclusions relevant to the intent of the Maryland General Assembly and its map-makers.[29] This criticism misses the mark. I am not an expert on intent, as Prof. Lichtman, supposes me to be. Instead, I opine on demographic facts and observe that those facts are consistent with the deposition testimony and other evidence.

25. Prof. Lichtman states, "No evidence, whether demographic or otherwise, simply leaps out and speaks for itself. Evidence must be culled, selected, and interpreted, especially as it relates to a complex causal question such as the intent of a legislative body."[30] Prof. Lichtman is correct—demographic evidence does not, and cannot, speak for itself. Instead, my analysis corroborates the testimony of key observers. I have joined my assembled empirical demographic facts with numerous specific statements by individuals concerning the intent of the legislature and its map-makers. Those facts are consistent with the demographic data documented in my report. These numerous specific statements, further corroborate my conclusions.

26. <u>Deposition of Governor Martin O'Malley</u>

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[28] MCM002527.

[29] Lichtman Rep. at 3, 12.

[30] Lichtman Rep. at 12.

a) Pages 25-27:

Q. Right, but in your capacity as governor of the state, you made a decision that what you'd like to see is the Sixth District converted from a majority of Republican voters to a majority of Democratic voters; is that a fair statement?

A. Well, I think it's fair to say that, as we did the redistricting, that we knew it would impact the Sixth, and our hope was—my intention was—that it would impact it in—all things being equal—in a more positive way for our nominee, whoever that might be. . . . Was a decision made? I suppose in the sense that we decided not to try to cross the Chesapeake Bay, that **a decision was made to go for the Sixth**. . . . [S]o, yes, we—**everybody pretty much knew that, as we redrew the lines, it would put more Democrats and Independents into the Sixth District**. And, hopefully, in the course of the campaign, I hoped, as a Democrat, that that would mean the election of another Democrat.

b) Page 28:

Q. [W]hat specific goals were advanced by moving 350,000 Montgomery County residents into the Sixth District?

A. The Congressional representation of Montgomery County improved, the number of Democrats and Independents living in—and progressive-minded people living in the Sixth Congressional District probably increased, and, as I said before, a couple of times, and as I, you know, it was also my

hope that we would—that the people would elect a Democratic Congressperson rather than a Republican at the end of this process.

c) Page 43:

A. [After meeting the statutory deadline and complying with one-person-one-vote], then a third factor was, when we redrew this, **yes, we wanted to do it in a way . . . that will make it more likely rather than less likely that a Democrat . . . is able to prevail in the general election.**

d) Page 47:

A. And as I've said many, many times here before, **part of my intent was to create a map that, all things being legal and equal, would, nonetheless, be more likely to elect more Democrats rather than less.**

e) Page 63:

A. . . . [O]ne of the considerations I had was to create a district that was more favorable rather than less favorable to Democratic nominees.

f) Page 81:

A. . . . [S]o, yes, **we all—those of us in leadership positions in our party, the Speaker, the Senate President, the Democratic Dean of the Delegation, myself, Lieutenant Governor, we all understood that,** while our—while we must fulfill our responsibility on redistricting, must be mindful of constitutional guidelines, restrictions, case law, statutes, **it was also—part of our intent was to create a map that was more favora-**

ble for Democrats over the next ten years and not less favorable to them. Yes, that was clearly one of our many modus.

g) Page 82:

A. . . . [I]t was also my intent to create a map that would be more likely to elect or create—create a district where the people would be more likely to elect a Democrat than a Republican, yes, this was clearly my intent.

27. **October 3, 2011, Democratic Caucus Talking Points**: The draft Congressional map "gives Democrats a real opportunity to pick up a seventh seat in the delegation by targeting Roscoe Bartlett."[31]

28. **Deposition of Maryland Delegate Curtis Anderson:**

Q. But you understood that the map would move Maryland from six Democrats and two Republicans to seven Democrats and one Republican?

A. Yes.[32]

29. **Deposition of Eric Hawkins (NCEC Services):**

Q. When you redrew the boundaries of Maryland's congressional districts, did you intend to make the 6th Congressional District more Democratic?

A. The intent was to see if there was a way to get another Democratic district in the state. . . .[33]

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[31] Miller Dep. Ex. 139 at 2.

[32] Anderson Dep. at 212:6-9.

[33] Hawkins Dep. at 230:15-231:1.

30. **Speech Delivered by Attorney General Douglas Gansler:**

> The third issue is redistricting. And the redistricting is interesting because I actually have to defend the legislature in its drawings of the map. . . . So many people have a problem with the way in which the state was gerrymandered this last time. For example, in the Sixth District . . . Garrett County, Maryland, a very rural, agrarian part of the state is coupled with Potomac, Maryland in Montgomery County, which is perhaps the most wealthy and least agrarian part of the state. And, yet, they are voting for the same representative in the election between Roscoe Bartlett, a long-time Congressman, and John Delaney, sort of a newcomer on the political scene. . . . So, what happened, we have eight congressional districts, . . . the Democrats had the ability . . . to look at the state gerrymandered in such a way to make it 7 [Democratic representatives] to 1 [Republican representative]. . . . They were looking do they want to make the Eastern Shore, try that again, to make it even more Democratic and make that the seventh Democratic district, or Western Maryland. They chose Western Maryland, and it's actually a 53% Democratic District.[34]

31. **October 20, 2011 Letter From Attorney General:**

> As indicted by those who participated in developing and adopting the redistricting plan, including the [GRAC], the Governor, and the

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[34] Initial Rep. at ¶ 111.

> General Assembly, the boundaries of the newly adopted Congressional districts reflect a number of considerations, including . . . partisan consideration.[35]

32. I also cite several additional statements made by the legislators who considered and voted on the 2011 Congressional map at pages 50-57 of my Initial Report. Prof. Lichtman does not contradict these statements in anyway. Rather, he takes issue with me for including them in my Initial Report. But Prof. Lichtman never explains why it is wrong for a scientist to determine whether the evidence supports his or her key conclusions. This is a necessary and important part of any rigorous scientific inquiry, and exactly why I lay out these facts in my Initial Report and this report.[36]

VII. Prof. Lichtman Misunderstands My Statements In *Fletcher v. Lamone*

33. Prof. Lichtman misunderstood the analysis that I offered in *Fletcher v. Lamone*. My point in *Fletcher* was that there was a corridor between Baltimore

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[35] *Id.* at ¶ 120.

[36] Prof. Lichtman also misses the point when he criticizes the facts that I offer concerning cultural and media sources in Western Maryland. The point of my Initial Report was that Western Maryland has its own educational and cultural institutions, newspapers, and television stations located in Western Maryland. *See* Initial Rep. at ¶ 23. Prof. Lichtman does not challenge this fact. Instead, he claims that it should be disregarded because some students at these educational institutions and attendees at cultural events may not come from Western Maryland. Lichtman Rep. at 23. Nor does Prof. Lichtman deny that communities in Western Maryland have their own newspapers, or that some individuals in Western Maryland have advocated that Western Maryland should secede from the remainder of the state. *Id.* at 25.

and Washington, D.C. that "has grown in population and integration in the last three decades."[37] As I noted in my *Fletcher* declaration, there are significant links between Baltimore and Washington, D.C. beyond commuting patterns. In particular, the African-American and Hispanic share of registered voters in this area had increased significantly between 2000 and 2010.[38] This migratory influx of African-Americans and Hispanics to the suburbs between Washington, D.C. and Baltimore was part of a national demographic trend toward more racially diverse suburbs, fueled by minority suburbanization.[39] These minority populations were younger and replacing older Caucasian voters in these suburban communities.[40] My analysis showed that the minority communities in this "Maryland corridor" had "common needs" and "share concerns," making them a natural community of shared interest.[41] Therefore, I concluded that a new Congressional District, proposed CD5, could be drawn connecting communities between Washington, D.C. and Baltimore.[42]

34. Prof. Lichtman ignores most of my analysis and opinions in *Fletcher*, and claims that I concluded

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[37] Morrison Aff. at ¶ 3, *Fletcher v. Lamone*, 11-cv-03220 (D. Md. Dec. 16, 2011) (ECF No. 48-3).

[38] Morrison Decl. at ¶¶ 6-14, *Fletcher v. Lamone*, 11-cv-03220 (D. Md. Dec. 7, 2011) (ECF No. 43-18).

[39] Morrison Decl. at ¶¶ 18-22, *Fletcher v. Lamone*, 11-cv-03220 (D. Md. Dec. 7, 2011) (ECF No. 43-18).

[40] *Id.* at ¶¶ 23-29.

[41] Morrison Aff. at ¶ 1, *Fletcher v. Lamone*, 11-cv-03220 (D. Md. Dec. 16, 2011) (ECF No. 48-3).

[42] *Id.* at ¶ 9.

that a new Congressional district could be drawn based on transportation linkages alone.[43] That is incorrect. As I noted above, by the scientific standards in my field, an established community of interest does not exist in an area simply because a highway runs through that area.

35. In this case, my analysis and conclusions are distinct from those offered in *Fletcher*. In *Fletcher*, I called attention to demographic trends in minority populations in suburban communities between Baltimore and Washington, D.C.[44] In this case, I call attention to the massive interchange of territory and splitting of Census Places in the post-2010 reconfiguration of CD 6 and considered whether it can possibly be justified by demographic data and consistent with traditional redistricting principles.[45]

36. Prof. Lichtman also appears to misunderstand the scope of my Initial Report. Prof. Lichtman argues that I "acknowledge[d] that the proper inquiry is statewide."[46] This is not the case. In my Initial Report, I stated clearly that I was retained to examine "whether the boundaries of the Sixth Congressional District that were adopted by the Maryland General Assembly in 2011 . . . can be explained by legitimate districting considerations," such as "maintenance of communities of interest."[47] Therefore, contrary to Prof. Lichtman's claim, I do not state or

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[43] Lichtman Rep. at 12-15.

[44] Morrison Decl. at ¶¶ 6-29, *Fletcher v. Lamone*, 11-cv-03220 (D. Md. Dec. 7, 2011) (ECF No. 43-18).

[45] Initial Rep. at ¶ 140.

[46] Lichtman Rep. at 3.

[47] Initial Rep. at ¶ 11.

otherwise acknowledge that the proper inquiry in this case is statewide.

VIII. Conclusion

37. Prof. Lichtman, Secretary Willis, and Mr. Cooper do not criticize the demographic methodology, analysis, or conclusions expressed in my Initial Report. Secretary Willis and Mr. Cooper do not offer any criticism of my Initial Report in their submissions. Prof. Lichtman offers no criticism of the key conclusions expressed in my Initial Report. Instead, Prof. Lichtman makes the unfounded claim that my demographic model is unscientific and biased, and he mischaracterizes the conclusions that I reached in this case and in *Fletcher*.

38. None of Prof. Lichtman's arguments are sufficient to show that there was a legitimate demographic justification, based in traditional redistricting principles, for the massive interchange of territory and voters that created the new Sixth Congressional District in 2011.

Date: May 22, 2017

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Dr. Peter A. Morrison

STATE OF MARYLAND
DEPARTMENT OF PLANNING

REDISTRICTING COMMITTEE MEETING
PUBLIC HEARING
CONGRESSIONAL REDISTRICTING PLAN
AND LEGISLATIVE REDISTRICTING PLAN

Frederick County – Hood College
JULY 23, 2011 2:00 P.M.

COMMITTEE MEMBERS:
CHAIRPERSON JEAN HITCHCOCK
PRESIDENT MIKE MILLER
SPEAKER MIKE BUSH
DELEGATE JAMES KING [1]

SPEAKERS:
SENATOR JIM GETTY
JOE KELLY
SENATOR DAVID BRINKLEY
ROBERT KRESSLEIN
DAN RUPLI
MYRNA WHITWORTH
ANDREW DUCK
BOYCE RENSBERGER
TOM SLATER
DELEGATE SUE HECHT

- - -

[2] Congressional District 6. We would appreciate being redesigned in Congressional District 6, but at the most, keep the county together in one Congressional District aligned with Western Maryland. Thank you very much.

MADAME CHAIRPERSON: Okay. Thank you, Senator. Mr. Joe Kelly. Mr. Kelly?

MR. KELLY: I'm Joe Kelly. I want to thank you guys for all being here today. Thanks for giving us an opportunity to speak.

MADAME CHAIRPERSON: Okay.

MR. KELLY: I want to speak a little bit on the Congressional District, and on also the Legislation Districts. Basically, the Congressional Districts throughout the state, we'd like to see more balance. You have some districts in the state that are balanced between the two major parties of like 80 to 20, and then you have—out here in Western Maryland, it's—we—in the Sixth District, we have [14] a Congressman who has been elected and been protected pretty much with the vote of—you know—of going the other way. And what I'm saying is—what I'm saying is, I'd like to make sure that the Sixth Congressional District is a district that is more of a toss-up, that we would have a chance to—you know—have a good race between two quality candidates and with both of them having the ability to get elected on their—not so—rather than what party they belong to, but what they're presenting to the people—to the district, and that's not the case out here right now.

The other thing is, on the Legislative Districts, I live in Jefferson, which is in the District 3 Senate. The Senate Districts are very good. I don't have any problem they way they're designed, but I do have a problem with the delegates breaking out, where you have 2B and—or 3B and 3A, one of them having two delegates, and the other one [15] only having one delegate. It's kind of like those people who are in the area where you have two delegates, they're getting a lit bit more—they have two people to speak for them down in the—and we're all from Frederick County, yet they're getting

like two people to speak for them down in Annapolis, while out in Jefferson, we're represented by one delegate. I think a Legislative District that has three delegates in it, but when you're all in the same county like this, there is a little bit right now that's in Washington County in that district, but the majority of those people are all in Frederick County. We should all have an equal vote—an equal chance to vote for people in, so make it a three-district rather than a two and a one split. Thank you.

MADAME CHAIRPERSON: All right. Thank you. Our next speaker is Senator Brinkley.

SENATOR BRINKLEY: Good afternoon.

MADAME CHAIRPERSON: Good afternoon,

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[21] communities, and I think bring all the representatives together on that. And again, I think three-member delegate seats would certainly be appropriate, too. Thank you.

MADAME CHAIRPERSON: All right. Thank you, Senator. Our next speaker is Bob Kresslein.

MR. KRESSLEIN: Good afternoon, Madame Chairman—Woman and Speaker, Mr. President, Delegate. My name's Bob Kresslein. I live in Middletown, Maryland. I am involved with the state Democratic party, but I'm here speaking on my own behalf today. I'd like to address two points. First, with respect to the Congressional districting, we'd like—I'd like to see you consider a couple of different factors. One is, sort of the communities of interest that we have. Senator Brinkley indicated—you know—if you look at Carroll County and west, there's a lot of similarity, but I would also posit that if you go south and east, you're going to find a [22] lot of things in common. If you look at, historically, upper Montgomery County, look toward Frederick,

for many, many years, that area has picked up quite a lot of population. And if you look at transportation patterns, you'll see that—you know—70 and 270 combine right here in Frederick County. And if you're on that road every day going to work, you know there's an awful lot of people from Washington County, even into Pennsylvania and West Virginia and Virginia that get on that road and go on into Montgomery County to work or into Washington, D.C. metropolitan area.

So if you look at the way people live and the orientation that they have geographically, in the state, I would say that northern Montgomery County would be a good place to—if you're going to move the district lines. Also, if you look at media markets, I mean, one of the things that you have in a Congressional campaign is the ability to communicate [23] with voters. Those of us here in Frederick County and west primarily in our media from Washington, D.C. market, if you look—where, if you've got a satellite T.V., you're pretty much getting channels 4, 9, and 7. That's what you're going to get your local news. Many more people get the Washington Post than the Baltimore Sun. There are a lot of Redskin fans out here, but there's a lot of Ravens fans, too.

So, I think if you look—you've got the Mark train that goes right down the river, so I think if you look at the Congressional District, you'll see that, certainly, when you compare that to upper Baltimore County and Harford County, and with the population changes, and you're going to have to pick up or move that line somewhere, where are you going to move it, over to Cecil County? Then, you're going to have basically a district that runs from Philadelphia to Pittsburgh along the Mason Dixon Line, and I mean, that's kind of—I don't know that we have a lot of [24] communities of interest in that regard. So, I would ask you to try to make the

district a little bit more compact, as opposed to being as spread out as it is, to take those things into account.

With respect to Legislative Districts, I think it's been stated by the Senator and Delegate—the Senators that, certainly, to the extent that you can keep the Senate Districts within the county lines, I think I would agree with that wholeheartedly. District 3 is—probably got more excess population in it than almost any Senate District in the state at this point, so that district is probably going to be compact—somewhat more compact, and that ought to be Senate around Frederick City. And I think as Mr. Kelly said, a three-member district makes sense. You may want to consider with District 4, like they mentioned earlier, to keep that in Frederick County, but how that's aligned, whether or not it makes sense to have single-member districts for District 4, it [25] might be a consideration.

So I appreciate your consideration, and welcome to Frederick County.

MADAME CHAIRPERSON: Thank you. Mr. Dan Rupli?

MR. RUPLI: Madame Chair—

MADAME CHAIRPERSON: Good afternoon.

MR. RUPLI: President Miller, Mr. Speaker, Delegate King. I'm Dan Rupli. I live here in the county, and I had the opportunity to actually run in this district in 1976--1978. It seems like a long time ago, and it's kind of ironic to remember that in those days, there was a parallel to what we have today, only it was kind of 180 degrees out of whack. In those days, if you were nominated by the Democratic party, you were almost automatically going to be the Congressional representative from the six Congressional Districts. In fact, in 1978, when I ran, the Republicans didn't field a nominee. They [26] were represented by a homeless man.

Today, it seems like we flipped the other way, and one of the reasons for that, I think, is the configuration of the district. There is no community of interest between Harford County and Garrett County. There is very little community of interest between Allegany and Carroll. You know, in spite of how we like to characterize our state, we can say, "Okay, maybe there's a conservative consensus." I don't even believe that. This district was once represented by David J. Lewis, who is one of the architects of the new deal and one of Roosevelt's favorite Congressmen, one of the people who wrote the Worker's Compensation law and contributed to the Social Security Act. So this is a district of largely working people.

I think the current alignment is that we have a district here where the incumbent can kind of put the people to sleep. There is no community of interest either in—or a shared media that reaches [27] the district. We're kind of a patchwork, and I would like very much to see the district go into northern Montgomery County, and I also think it would be very instructive, and I would encourage you, in your future meetings, to have a suggested map of what this district might look like under what is being considered. These things rarely happen in a vacuum. There are all kinds of political considerations made when we redistrict; that's a fact. I think we ought to acknowledge that with transparency, and let us have a look, so that we can see what we're considering as an alternative to the current district. Thank you.

MADAME CHAIRPERSON: All right. Thank you. Don DeArmon?

MR. DeARMON: Hello. Thanks for coming to Frederick today. I want to comment just on the Congressional Redistricting. I have sort of one macro thought and one micro thought I want to share with you. If we

were to describe a country, maybe an ally [28] of ours, a developing country, where the most numerous house of the legislature routinely, more than 90 percent of the incumbents were re-elected, we would think, "Well, geez, that's not a very Democratic system that they have there." Though, that's the case here in the United States, and in fact, in the last 13 election cycles, the House of Representatives has—over 95 percent of the incumbents that ran for officer were re-elected, and that means that—and there have even been three changes in party during that time. So, my macro thought is that, you have a chance here, and you certainly can't do it nationwide, but to create competitive districts. And to the extent that you can create competitive districts, I think you should try to create competitive districts. I think that engages the public, it makes voters more likely to come out and vote, it makes the electorate more likely to take to—take an interest in public affairs, and so try to create competitive districts. [29]

When it comes to the Sixth Congressional District, I was the nominee for my party in the 2000—2002 cycle, so I ran in the district when it was constituted as six counties, and ran in a district where it was constituted as eight counties. So the start of the Sixth District is pretty easy, with Garrett, Allegany, Washington and Frederick, you've got a nucleus there, and then it's just a question which direction you go. Are you going to go east, or are you going to go southeast, or are you going to go south? Having campaigned in both, I have to tell you that my sense is, especially since the lines were drawn after the 2000 census, I think if you took a poll in upper Harford County, Baltimore Counties and the section of Montgomery County that's in our Congressional District, a very low percentage of

those people would actually understand that they're residing in the Sixth Congressional District.

In fact, I thought it was humorous the other [30] day. I—Barry Rascovar, in the Gazette, actually mischaracterized the district, and it was interesting to me that somebody who is as well-attuned to political affairs as that would not know, and I think it's because the district has changed. So my sense is, having campaigned in those areas, that when you start there, that Carroll, and certainly, Baltimore and Harford Counties, their orientation is much more toward a Baltimore County or Baltimore City direction. And Frederick is increasingly, and it's—as Bob Kresslein pointed out, we're heading southeast, and our orientation is toward Montgomery County.

I think that so many things are done in the state or county centric, and so you need to come up with a minimum number of counties for this district, and that our orientation, once you start with those four counties, if at all possible, your orientation should be to go east into either Howard, or go southeast into Montgomery Counties, to the greatest [31] extent possible, and leave Montgomery—excuse me—leave Harford, Baltimore, and even portions of Carroll for a Baltimore-oriented district. Thank you very much.

MADAME CHAIRPERSON: Thank you. Myrna Whitworth? Ms. Whitworth? Okay.

MS. WHITWORTH: Good afternoon.

MADAME CHAIRPERSON: Good afternoon.

MS. WHITWORTH: I'm speaking to you very much as a partisan Democrat. I rep—I'm chair of the Democratic party here in Frederick County, and I'm speaking from that perspective. My job is to turn Frederick blue and hopefully the Sixth Congressional District along with it. I have been here a very short time, only

nine years, which, in Frederick County, is only yesterday. I come from the Fifth Congressional and Steny Hoyer. And believe me, it's a lot easier being a Democrat in Prince George's County than it is here in Frederick County. However, we are making [32] strides. We are building the party. We have an active volunteer organization, and we expect to make inroads, and your decisions here that you present to the Governor will have a large impact on how well we do.

In 2010, we, like so many others, didn't do well. But, as I say, we are growing the party, and we're prepared to work very hard in 2012. But we have had problems with trying to get Congressional candidates elected, particularly since the 2002 redistricting. And despite heroic efforts by our Congressional candidates, they have been at a severe disadvantage. And because of that, they have not received the support of the state or national party. And we also feel that it has negatively impacted down ballot candidates for us.

I also understand that you and this commission are looking at two factors, diversity and national natural and political boundaries or—and I [33] strongly believe that if you look at those, you will find that our current configuration, as others here today have indicated, makes little sense. Historic—right now, Frederick is the gateway to Western Maryland. It's the largest population center, and among Frederick County residents are those people from Urbana, who very much look south. Frederick County, many of the people here look south, go down the 270 corridor and have businesses and jobs in the Greater Washington Metropolitan area. And so, to look at Frederick and west, as well as to look at Frederick south, gives a much more natural boundary to what the Sixth Congressional District should look like.

In terms of diversity, no Sixth Congressional District is going to be representative of the state. It's just a matter of fact. But let me just give you one statistic, if I may. If you look at Carroll County, for instance, if you would lob off Carroll County and Northern Baltimore and Northern [34] Harford County, you would have a better chance of breaching the diversity that we are—you hopefully are looking at. Carroll County, for instance, if you look at it, is a 92.9 percent white population in a state that's only 48.2 percent white. The African American population in Carroll County is only 3.2, with a state average of 29.4. The Hispanic population is 2.6, the Asian population is 1.4, both well below the state average. I'm not suggesting that Frederick County is a whole lot better, but I do know that looking to the northeast of the state will not improve that diversity. Looking to the south will, and I hope you will take into consideration those aspects as you come up with your recommendations. Give us a fighting chance to win, to work and to change the composition of the Sixth Congressional District. Thank you.

MADAME CHAIRPERSON: Thank you. Chris Huckenpoler (phonetic). Is—okay. Chris Huckenpoler? Unless I'm not pronouncing that person's [35] name correctly. Okay, let's move on to Andrew Duck.

MR. DUCK: First of all, thank you for coming to Frederick. I also saw you out in Hancock this morning. I appreciate you coming out to Western Maryland and taking our input. I speak to you—

MADAME CHAIRPERSON: Excuse me—you know - - they're asking me to have you pull that out and speak directly into it, because we are getting—

MR. DUCK: Is this better?

MADAME CHAIRPERSON:—a record of it.

MR. DUCK: Well, I was just thanking you for coming here. I speak to you today as someone who has run for Congress in the district as it is currently configured, been the nominee twice. And so, for the last six years, I have gone across the Sixth District of Maryland, all the way from Friendsville and Garrett County to Dublin and Harford County, and when it comes to communities of interest, those two communities have nothing really in common. The folks in Garrett County [36] are not even in the Chesapeake Bay drainage area. They're—they get very mad about the flush tax, because they're trying to clean up the Chesapeake Bay, when their sewage flows out through the Mississippi.

The folks in Harford County are very much concerned about the bay. They live right next to it. The differences between mountain Maryland and even central Maryland are vast, and these district—this district, because it's over 220 miles east to west, makes it very difficult logistically for one Congressman to represent that whole district. It makes it difficult for a candidate to reach out to voters across that district. Voter contact is particularly difficult in Harford and Baltimore County, because those voters who are in the northern part of that county have their center of life in Baltimore. And if you're trying to do an event where you're doing voter contact, you don't contact voters there, because they're all down in Baltimore. You go [37] to Baltimore to contact them, you're contacting more out-of-district voters than in-district voters. So the way that those counties are split makes it very problematic. And so, I would encourage they be organized into a district that is more suitable to keep those communities together with the Baltimore community.

Carroll County is also interesting, and I note that even in your map of Legislative Districts, you have the western part of Carroll County shown here with West-

ern Maryland, but not the eastern part. And I think that that's reflective of the pattern of life of the people who live in Carroll County. The folks on the eastern side live in—they work in Baltimore, live in Carroll County, and so they really are very different from the folks in the western half of Carroll County. This is what I've found as I've gone out and talked to people.

Frederick and Washington County have really [38] become part of the Washington suburbs, and I think, as such, the community of interest makes it more relevant for them to be lumped with Montgomery County than with people from Harford or Baltimore County. So I think, both in terms of making it viable for someone to reach the voters, and in terms of better representing the population, it would make more sense to re-orient the district to include more of Montgomery County and less—and none of Harford and Baltimore and less of Carroll, as you put those communities in with the Baltimore County area that they are naturally a part of.

Those are my comments. Thank you for your opportunity to speak.

MADAME CHAIRPERSON: All right. Thank you. Holly House? Holly House? Going once, twice. I think this is Boyce Rensberger? Did I pronounce your name correctly, sir?

MR. RENSBERGER: Closer than most people get [39] it. Yes, that's great. Thank you.

MADAME CHAIRPERSON: Okay.

MR. RENSBERGER: Yeah, my name is Boyce Rensberger. I first lived in Frederick County in 1981 in Urbana when it did not deserve that name at all. It wasn't urban in any sense. It was—

MADAME CHAIRPERSON: Right.

MR. RENSBERGER:—there were just about a dozen houses there.

MADAME CHAIRPERSON: Oh, they're going to tell you to—

MR. RENSBERGER: Oh, sorry, yeah. Nobody else is going to like it at this height.

MALE VOICE: Get close.

MR. RENSBERGER: Yeah, okay, I'll get very close. When I got to Urbana in 1981, there were only about a dozen houses. After a few years, I moved away for work and family reasons. Just moved back three years ago, to a place north of Woodsboro, in a town [40] called New Midway, and looked at Urbana, and the county population has changed so drastically, the area around Urbana, that it doesn't seem like the same county. And I've—so I want to speak in favor of a redrawing of District 6 boundaries so that they go down and include more of the interest of the Urbana-ites, the folks that live in Urbana, if I can call them that, and also to recognize demographic trends that are occurring and surely will accelerate through the next census. The city of Frederick's the second largest city in the state. It's majority Democrat.

All of Frederick County looks to our city as its center of its cultural life. It's a very vibrant city, lots of great reasons to live here and visit here. I know of couples from Boston and New York who looked for places to retire, and they—one of them in particular told me they did some searches, looked at surveys asking what you want in a retirement community, and the surveys consistently pointed to [41] Frederick County and Frederick City. They moved down here, and then they were shocked to realize that, in a city as sophisticated as Frederick, their politics weren't represented at all at the national level, and I'm just speaking about Con-

gressional Districts here. I—so it's—you know—the district lines that's drawn now give it a population distribution that is very unlike that of the reason that so many people are being drawn to Frederick—Frederick County and City.

We live in a republic, a representative democracy, and yet our representative in the Congress is not representative of the kinds of people who are choosing to live in Frederick County, and I think that's something that ought to be changed. They feel that their interest, their feelings and so on are being shut out of the process. So I'd urge you to realign the boundaries of District 6 so that it's demographics come closer to representing what are becoming and what we certainly will become even more [42] over the next few years, and maybe even more—because we'd like to attract more of those retirees who are coming here looking for the kind of good life that Frederick can offer. Thank you.

MADAME CHAIRPERSON: Thank you, thank you. Mr. Tom Slater?

MR. SLATER: Thank you, and good morning—or good afternoon to all of you. I'm going to try to read my comments, so that I can make sure I get them in within five minutes, but give me a little leeway. What I want to do is look at things from a historical perspective. And so, you know that the current Sixth District consists of Allegany, Carroll, Frederick, Washington and Garrett Counties, all of those counties, and parts of Baltimore County, Harford and Montgomery. That current district was created after the 2000 census, and Harford County has only been included in the Sixth Congressional District since that time, since 2000. [43]

Going backwards, the 1990 census produced the Sixth District that included all of those same five counties in the western part, plus Howard County. And that

was when Congressman Bartlett (phonetic) was elected in 1992 after incumbent Beverly Byron (phonetic) was defeated in the Democratic primary. The 1980 census, and subsequent redistricting, resulted in a Sixth District that included those five counties and parts of Howard and Montgomery County. With the 70s census and redistricting, a small portion of Baltimore County and Montgomery County was added to those five western-most counties. Goodloe Byron was elected in 1970 from the 60 census lines, and then continued to be elected with this configuration until he died in 1978 when he was succeeded by his wife, Beverly.

The 1960s, there were two Congressional redistrictings, the first included the five counties that I've mentioned, a small part of Baltimore County. [44] And then, in '62 and '64, the Congressional District included all of Allegany, Frederick, Garrett, Washington, and for the first time, all of Montgomery County, and that was when [Charles] 'Mac' Mathias and Glenn Beall represented the district. Note that portions of Baltimore County have been included in the Sixth Congressional District for only about 26 years, which, in the whole history of redistricting, is not a long period of time. And I'm not going to go decade by decade all the way back to 1789, because that would take too long. But before I'm thinking about this, I thought about a book that I read, Walter Johnson, Baseball's Big Train.

Now, you're wondering, "What does this have to do with redistricting?" Walter Johnson, as most of you may know, was the original member of the baseball hall of fame. What you may—and this book is written by his grandson, Henry Thomas. And if you're a baseball fan, you want to read this book. It's a [45] really good book. I see the Speaker shaking his head.

SPEAKER: I've read it.

MR. SLATER: He's probably read it.

SPEAKER: He was also a Commissioner.

MR. SLATER: I'm getting to that, because I had the pleasure of meeting Mr. Thomas, and he had signed the book for me. And when he signed it, he said, "To Tom, who lives in Walter Johnson territory. Best wishes always." Now, at that time, I lived in Adamstown in Frederick County when he wrote that in 1996. What does he mean by Walter Johnson territory? I guess it could mean the areas that supported the senators, which would probably be true. But on pages 338 to 340, he describes Walter Johnson's run for Congress, and some of you may not have known this. Walter Johnson ran for Congress for Montgomery County in the Sixth Congressional District in 1940. He ran against incumbent Woodrow Byron, Goodloe Byron's father, and Beverly Byron's father-in-law. So Walter [46] Johnson territory could refer to the Sixth Congressional District, including all of Montgomery County.

Walter Johnson, at that time, as the Speaker said, was a Commissioner, a County Commissioner from Frederick County. Interestingly enough, as described by his grandson, he lost that election, as follows: "Johnson's alliance with the Republican platform of isolationism and opposition to Roosevelt's big government dictatorship swayed the heavily Democratic electorate against him, giving the victory to the able and popular, young incumbent." Another one—another Congressman from this district, when it included Montgomery, as mentioned by Dan Rupli, was David J. Lewis. He was William Byron's successor. He served from 1931 to '41, and then previously from '11 to '17, 1911 to '17, and he was the main sponsor of Social Security, and I put in here the unemployment insurance law, but I think Dan's right. It was probably [47] Worker's Comp.

The important point that I want to make is that going back to the very first Congressional districting—and I didn't say redistricting—districting—in 1789, Montgomery County has historically been a part of the same Congressional District as Frederick and the more western counties. From 1871 until 1966, almost 100 years, the Sixth Congressional District consisted solely of Frederick, Washington, Allegany, Garrett and Montgomery County, all of Montgomery County. So historically, Montgomery County's been connected with Western Maryland. Carroll County has been a part of the same Congressional District as Frederick for 81 out of 174 years, so less than half of the time. Carroll County's more often shared its Congressional District with neighboring Baltimore County, and I agree with those who said earlier that that's where the direction ought to go for Carroll County. [48]

Frederick County and the counties west of Frederick have more in common with Montgomery County than they do with Carroll, Baltimore, or Harford. The historical record supports the inclusion of at least a portion of Montgomery County to continue to be a part of the Sixth Congressional District. And I had said I was going to talk about General Assembly redistricting, but I'm out of time. Thank you.

MADAME CHAIRPERSON: Thank you. Okay, thank you. Delegate Sue Hecht?

DELEGATE HECHT: Thank you, Madame Chair, Mr. President, Mr. Speaker and Delegate King, it's nice to see you again. I did ask originally for the three minutes, but I would ask if I can extend that, because I do have some information, having served in the General Assembly for two terms—for three terms, so could I ask for the five minutes?

MADAME CHAIRPERSON: Yeah, the five minutes would be—you're going to speak to both of them? [49]

DELEGATE HECHT: Both, yes.

MADAME CHAIRPERSON: Okay, five minutes.

DELEGATE HECHT: Thank you.

MADAME CHAIRPERSON: Okay, all right.

DELEGATE HECHT: I believe I come to you with a unique perspective and background, as a retired state legislator serving District 3, Frederick and Washington Counties for eight years, and then after that, after the redistricting, serving District 3A and Frederick County for four years. While Frederick County is my county of choice since 1975, my county of birth is Montgomery County. I was born, raised, educated, employed, became a mother—and a wife and a mother, I should say it that way, in Montgomery County for nearly 30 years. So in the 1970s, my young family, as thousands of people, especially the baby boomers, moved up north, up west, north and west on the 270 corridor, so we could afford the American dream; i.e., a house and a little patch of land. [50] During the 1970s and continuing until the economic downturn recently, Washington—Frederick and Washington County have seen a huge increase of Maryland citizens migrating, mostly from the Washington Metropolitan Area, especially Montgomery County, as we did.

It's my experience that Frederick County and the greater Hagerstown area, especially along the I-270 corridor, increasingly identifies itself with the exurbia of the Washington D.C., not Baltimore City and its suburbs. Even though Frederick is in the enviable position of sitting 50 miles as an apex of both Washington and Baltimore City triangle, the more new Western Maryland residents maintain close ties with Montgomery County and D.C. area, not as much with the Balti-

more. Let me give you just a couple of examples. We've heard about the thousands of commuters that come down I-270 and Route 15, coming through Frederick. They're most of the majority—vast majority of those [51] folks are going to jobs in the Washington Metropolitan Area, not Baltimore. We've heard about our mass transit links that go to Washington through the Mark, not Baltimore. Frederick is part of the Greater Washington initiative and an affiliate of the Greater Washington Board of Trade, marketing the Greater Washington Area.

We are not included in the similar Greater Baltimore initiative, even though we love Don Fry (phonetic). Frederick is part of WASHCOG, or the Washington Council of Governments, a regional organization of Washington area local governments surrounding our nation's capital, plus members in the Maryland and Virginia legislatures. The Bureau of Labor statistics and the U.S. standard—U.S. Census Bureau count Frederick among the Bethesda, Rockville, Frederick, Maryland, Metropolitan Division.

The years that I served in the General Assembly, I worked closely with the folks in [52] Montgomery County on economic development. One example is a former County Executive Doug Duncan, and I did develop the Frederick—excuse me—the Potomac Technology Corridor that runs from Montgomery County up 270, up I-66, as a way to expand our biotechnology business, and it was folks from Montgomery County that helped make sure that when MedImmune and Montgomery County had to expand and couldn't find a place in Montgomery County, Doug Duncan said, "There is no such thing as county lines between Frederick and Wash—Frederick and Montgomery County," and made sure that MedImmune expanded here in Frederick County, not out of our state.

So those are just a couple of examples. So my suggestion, and I hope that we return Montgomery County—the upper part of Montgomery County, move it into Frederick County as it was before. Now, very quickly, I'd like to talk about the legislative state districts, because I have served as a state legislator [53] in two different districts, within two different sections. When I first was elected in '94, I was in an at-large district called District 3 that was Frederick and Washington County. There was three of us serving, and the way it was drawn, no Washington County resident could have a chance of winning that district. It was just too heavily populated in the Frederick area. It was hard to serve when you are serving in another county that has a very different reference. It has changed somewhat now that we are much more alike, but—and then, the next time when I ran, it was in a two-member district, mostly Frederick City and 3A, because of redistricting had drawn it.

So I would like to say if you can possibly make the population, the legislative population so that you are in their county, it is much better for the residents, it is easier to serve for the legislators, but mostly, it is more representative for [54] the people of those counties to have the opportunity to have somebody that lives and works and will; serve them within their county. Thank you very much.

MADAME CHAIRPERSON: Thank you. That comes to the end of the people who have signed up to speak. Ms. Janey, was there another sheet for anyone else?

FEMALE VOICE: No.

MADAME CHAIRPERSON: Okay. Assuming there is no one else who'd like—would like to have an opportunity to be heard, I want to thank the persons who did

make presentations. I'd like to thank all of you for coming out and participating in this process as an observer to see how government works. And with that, thank you very much. This brings us to the end of the hearing.

(Meeting was adjourned at 3:00 p.m.)

STATE OF MARYLAND
DEPARTMENT OF PLANNING
REDISTRICTING COMMITTEE MEETING
PUBLIC HEARING
CONGRESSIONAL REDISTRICTING PLAN
AND LEGISLATIVE REDISTRICTING PLAN

Washington County Middle-Hancock High School
JULY 23, 2011 11:00 A.M.

SPEAKERS:
HOWARD GORRELL
ELIZABETH PAUL
SENATOR CHRIS SHANK
KAYE ROBUCCI
SENATOR GEORGE EDWARDS

* * *

[14] Congressional districts are completely very important.

So, my final word, on (indiscernible) hearing. Do you have any questions?

MADAM CHAIRMAN: Thank you. Thank you so much. I'm sorry, no time is left. But I have your presentation. I have your presentation. Thank you.

Okay. Our next speaker will Ms. Elizabeth Paul. Good morning, Ms. Paul.

MS. PAUL: Hi. And I have a copy for you.

MADAM CHAIRMAN: Okay.

MS. PAUL: Good morning. I'm Elizabeth Paul. I'm going to talk about the Congressional District. I live in (indiscernible) and I'm Chair of the Washington County Democratic Central Committee.

We need a sixth Congressional District that's not a patchwork of odds and ends of the different counties, but rather one that makes sense and shares more than the Mason Dixon Line. This district currently spans a distance of, you know, 200 [15] miles across the northern part of the state. Unless the district is approached southeast instead, it's likely the population changes could push it all the way into Cecil County elongating the district even more.

When the State decides the population of Maryland, that just doesn't make sense. Until recently, you all heard that Montgomery County is part of our district and historically that region has had close ties to the Frederick area, as well as the western counties up here, and certainly more so than upper Baltimore and Harford County which were added in 2002.

Residents in the more populated parts of the sixth district are more aligned with Washington, D.C. suburbs by transportation routes such as I-270 and the MARC Commuter Trains, by employment in the D.C. Metro area and Northern Montgomery County as opposed to Baltimore suburbs or Harford County. We are linked by [16] media outlets including print and television.

For example, many more people subscribe to the Washington Post than the Baltimore Sun in this area. The TV markets include us in the Greater D.C. Metro

area and not Baltimore, unlike Carroll, upper Baltimore and Harford. The Potomac River and population along it is a more natural sixth district boundary to the Mason Dixon Line at this time. Please make the boundaries of the Sixth District more logical, creating a more unified region. Thank you.

MADAM CHAIRMAN: Thank you. And do you have a copy for me? Okay. Thank you.

MS. PAUL: I can get them and give them to you.

MADAM CHAIRMAN: All right. Our next speaker is Senator Chris Shank.

SENATOR SHANK: We have a man on the way here, too. Good morning, Madam Secretary and Mr. President, Mr. Speaker and Delegate. It's a pleasure

STATE OF MARYLAND
DEPARTMENT OF PLANNING
REDISTRICTING COMMITTEE MEETING
PUBLIC HEARING
CONGRESSIONAL REDISTRICTING PLAN
AND
LEGISLATIVE REDISTRICTING PLAN
Prince George's County - Prince George's Community College
July 25, 2011 7:00 P.M.

SPEAKERS:

MARCUS AFZALI
DAVE E. MORAN
DELEGATE MELONY GRIFFITH
TREVOR OTTS
PAT FLETCHER
JIM HENDERSON
DELEGATE AISHA BRAVEBOY
HEATHER OLSEN

TANYA HILL
YVETTE JARDIN
KAREN JO POPE-ONWUKWE
LEMAN JOHN AUNCHMAN
MYKEL HARRIS
JUNE WHITE DILLARD
BRIAN MORRIS
NICOLE WILLIAMS
JOSEPH KITCHEN
JUANITA MILLER
CHONYA JOHNSON
MARY MURPHY
STEVE WAUGH
DENNIS SERRETTE
DELEGATE MARVIN HOLMES
BOB ROSS
PHIL LEE
SHARON TAYLOR
SENATOR JOANE BENSON
LEN LUCCHI
CASEY LEWIS
TERRY SPEIGNER
MAYOR ANDREW FELLOWS

* * *

[53] black and Democrats, they'll never vote for him, without any regard for the fact that Congressman (indiscernible) doesn't have anything akin to our community. We may be city and suburban, they're country, oceanfront. Nothing alike.

So in closing, I'll just simply ask you to please avoid the lawsuits that will come and the disenchantment and disillusion. Do the right thing. It's never too late to do the right thing. And we will recognize good government when we see it.

MADAME CHAIRPERSON: June White Dillard.

MS. DILLARD: Good evening, Madame Chairman and members of the State Redistricting Commission. Thank you very much for coming to Prince George's County. Since the 2010 population, 2000 population was taken, 2010 shows an increase of more than five percent of the African American population statewide, making us about 30 percent of the total population in the State of Maryland. [54]

African Americans are grossly unrepresented, both in the United States Congress and in the General Assembly in Annapolis, and that's what we need to have remedied by your Commission. There should be 721,000 people in the district or the U.S. Congress. Prince George's County has now three representatives. We need to have two. We need to have Prince George's County shared between the 4th and the 5th Congressional Districts and Montgomery County have the 8th and the 6th Congressional Districts covered in Montgomery County and the 5th Congressional District extended into Charles County.

In terms of the state legislative districts, our population is 865,000 and we need approximately 122,000 per district. We need to have seven whole districts for Prince George's County, 21, 22, 24, 25, 26, and 27 and the last one would be 47. Twenty three needs to be incorporated into Anne Arundel County. Districts need to be compact and contiguous to [55] withstand any court challenge. They also need to be fair in the creation of new majority/minority districts for the federal and the state districts. Thank you for your time.

MADAME CHAIRPERSON: Thank you. Brian Morris?

MR. MORRIS: Good afternoon.

MADAME CHAIRPERSON: Good afternoon.

MR. MORRIS: Good evening, Madame Chair. Good evening, Committee members. Welcome to Prince George's County. I'm also representing Fannie Lou Hamer Political Action Committee. And just what everybody's saying here tonight, it seems like everybody's pretty much saying the same things. The population has changed and they want to see it evened out. They want to see everybody represented fairly.

MADAME CHAIRPERSON: Your name?

MR. MORRIS: Brian Morris.

MADAME CHAIRPERSON: Are you going to speak

* * *

So those are my concerns about the legislative districts. More importantly, I just really want to make sure that we (indiscernible) to what is Prince George's County and we cannot give up our representation in the House of Delegates or the State Senate. I do not see that as a way for us to move forward. Thank you.

MADAME CHAIRPERSON: Ms. Danita Boffolo? Danita Boffolo? Juanita Miller?

MS. MILLER: Good evening, Madame Chair and members of the Commission. Much of what I'm about to say has been reported, however, I will read it for the record and—

MADAME CHAIRPERSON: Both?

MS. MILLER: Yes, on both the congressional and legislative redistricting plans. The census figures released on February 9th, 2011, we feel that the black population in Maryland rose by 15.1 percent to over 1.7 million and that African Americans now [68] make up roughly one third of the state's total population.

As the state's demographics continue to change, we must, we must leave an opportunity for a more diverse

delegation reflective of our state in the future. This population change will have a significant impact on the new congressional districts and state legislative districts.

Goals that I'm recommending on behalf of my constituency as a community advocate. The goals for the Maryland congressional redistricting plan are preserve and strengthen the two majority African American congressional districts and create a future opportunity for a third minority congressional representative by maintaining the integrity of the 5th Congressional District, which currently has a Democratic voting age population of 57.62 percent. As an educator, I don't talk when the children talk, so once I have everybody's attention, I will continue. [69]

The increase in population in this district is largely a result of the increase of African Americans in Prince George's and Charles County. Maps should not be drawn to reduce the African American or—the African American vote or percentage in the 5th Congressional District.

The second goal should be to remove the 8th Congressional District from parts of Prince George's County to allow for a more compact, contiguous 4th Congressional District that does not stretch to the border of Frederick and contains communities that have more in common.

And the third goal, prevent other legislative districts from reaching into Prince George's County, which would have the effect of diluting the minority voting strength and minority voting percentages in Congressional Districts 4 and 5. In particular, there has been discussion about bringing the 1st, 3rd, and/or 7th Congressional [70] Districts into the county. We strongly oppose that approach.

Goals for the state legislative redistricting plan. Provide state legislative districts that will achieve the goal of having more opportunity for African Americans to be elected to the state legislature in proportion to their population size in the state, 30 percent House, 42 African American members, and 30 percent of the Senate, 14 members.

The second goal is prevent the dilution of African American voters by not allowing multiple legislative districts to cross jurisdictional boundaries. The 21st legislative district should move out of Anne Arundel County and pick up part of South Laurel and Northern Bowie that are currently in District 23, which is overpopulated.

The 23rd District not be extended into Crofton, but should be made in Bowie, Mitchellville, [71] Glen Dale, Kettering, and parts of Upper Marlboro, as it states. Further, the 23rd District should not be split into A and B on the House side. It should become one whole district with three delegates.

Number four, blacks should not be packed into the 24th, 25th, and 26th Districts because the black population has grown to over 64 percent of Prince George's County, while the white population shrunk to 15 percent and Hispanic is at 15 percent.

The fifth goal and the final one that I'm going to present to you this evening, the 47th and 22nd districts must be reconfigured to become more contiguous and contain more communities that have similar interests. Thank you for your attention and time.

MADAME CHAIRPERSON: Chonya Johnson. (Indiscernible.) Laurel. Live in Laurel.

MS. JOHNSON: Yes.

MADAME CHAIRPERSON: And your name is Chonya

* * *

Prince George's County has in the U.S. Capital have the opportunity to continue in those two roles. We're very blessed to have very good, very excellent representatives. And whatever happens, I think we need to make sure we have those two representatives have the opportunity to represent Prince George's County in the U.S. House of Representatives. Thank you very much.

MADAME CHAIRPERSON: Casey Lewis. And then, after that, Terry Speigner.

MS. LEWIS: Yes. Good evening, Madame Chair and those on the Commission. I'm Casey Lewis. I'm a realtor in Prince George's County and I totally agree with what Delegate Braveboy said and what Sharon Taylor said.

I think we should keep Prince George's compact. I would love to stay in the 23rd District. That's my district. I've been there for quite some time. I've educated most of my constituents around [101] Prince George's County and most of the realtors are my clients who are builders to let them know about the redistricting process. A lot of them are here tonight. I disagree with the lady who said 23 should get Anne Arundel County. No, it shouldn't be. It should stay in Prince George's County.

I also agree with—there was somebody else here who said that we do want a compact, compact area and we do love Prince George's County. I would really pray that you would really look at how you redistrict this county and keep it as close to what it is right now. Thank you so much for your time.

MR. SPEIGNER: Good evening, Commissioners. I'm not going to say the same words that you've heard tonight about compact, contiguous. I'm not going to say

a word about communities with interests. But I think you understand that the people tonight want those things and I'm going to speak on the whole congressional and legislative. [102]

At the end of the day, I want everybody to understand that Prince George's County has changed tremendously over the last decade. We've increased our population by over 60,000 people, 27 municipalities that represent 27 percent of our population. Our CDPs and our incorporated areas, like Camp Springs, Mitchellville, Landover, places like Largo, Kettering, Lake Harbor, they represent 72 percent of our population. They're called CDPs, census designated places, and they deserve to be together in tightly knit districts.

These are people who are neighbors who have the same issues as the neighbors across the street from them and we do not want these communities, whether it is Chillum, which has over 33,000 people in it, which is larger than every municipality in Prince George's County with the exception of the City of Bowie. We do not want that community to be in more than one legislative—congressional district. [103]

I agree that it's time for Prince George's County to have only two congressional districts—

MADAME CHAIRPERSON: Do you need some help?

UNIDENTIFIED SPEAKER: Did you say three?

MR. LEWIS: Two. Two congressional districts. I say two. This is my testimony, so listen and I don't need any comments from you right now. Two congressional districts. Congressional District 45 should be in Prince George's. The 8th Congressional District I think really doesn't do anything other than use Prince George's to put another member of congress in it. I like Congressman Van Hollen very much but, at the end of

the day, all politics are local and, right now, we need to focus on our home turf and that's Prince George's County.

Congressional District 5 I would hope that it will stay mostly in Prince George's County, mostly the way it is. Congressional District 4, we should bring it out of Montgomery County mostly, put most of [104] it into Prince George's County, because that is where the heart of our district is. Most of Congressional District 4 is in Prince George's. We have about—I think about, oh, 60 percent of—enough congressional fodder to affect the outcome there, where 50 percent, almost 60 percent, of that is African American voters.

This is not about people. When I say people, it's not about the people that are in office. This is about the people who live, work, play, and pray in Prince George's County. This is about the citizens of Prince George's County. This is not about keeping a particular incumbent in office because incumbents come and incumbents go. But the people are going to be here and they're going to have issues that they want to be able to have to deal with in the future, setting up, you know, the future for their children and their (indiscernible). That's what this is about.

This is about the next ten years in Prince [105] George's County, whether we're going to stay the same, go backwards, or whether we're going to progress and join our neighbors in a great economy called the United States of America. We want to grow our county and we want our county to succeed.

The 27th Legislative District I would love that to stay in Prince George's County. It is almost 50 percent African American. (Indiscernible) a different time in Prince George's, or what used to be in Prince George's. It used to be in Prince George's but, at some point in

time, I think that someone who lives in Prince George's will actually represent the 27th Legislative District.

So I simply ask everyone don't cut off your nose to spite your face. Do not try to axe 27, Legislative District 27, out of Prince George's County. Don't try to axe the 5th Congressional District out of Prince George's County. The demographics are in the favor of the majority of the [106] people who live in Prince George's County.

At some point in time, it will become a district whereby (indiscernible) will represent the 5th Congressional District. It may not happen in two years. It may not happen in four years. But at some point in time, it will happen. So what we're looking for is do the right thing with the districts, do not change the demographics of the districts because the vibration patterns of people who live in this region are following those districts.

So that's what I would encourage the Commission to do, is keep the fair in the county, keep the demographics and the population numbers the same as it relates to the racial base, keep the 4th in the county, (indiscernible) in the county, take the 8th out of the county. (Indiscernible) Congressman Van Hollen, but it's time to put Prince George's County back together, put our neighborhoods back together, put our communities back together.

STATE OF MARYLAND
DEPARTMENT OF PLANNING

REDISTRICTING COMMITTEE MEETING
PUBLIC HEARING
CONGRESSIONAL REDISTRICTING PLAN
AND
LEGISLATIVE REDISTRICTING PLAN

Montgomery County - Shady Grove
August 10, 2011 7:00 P.M.

SPEAKERS:
CHIP BERMAN
DON O'NEILL
DOUG MAINWARING
STEPHEN MCLAUGHLIN
JOSEPH DOANE
STEVE SHAPIRO
LYNN CREECY
DELEGATE ANA SOL GUTIERREZ

* * *

[19] more or less Golden Rule basis, as one of the earlier speakers alluded to, retribution is probably going to be forthcoming.

And then, finally, there are laws, federal laws, that say that these districts should be relatively compact and, unless they are made compact, the courts may have to address the wrong that's been done. Thank you.

MADAME CHAIRPERSON: Mr. Steve Shapiro. And then followed by Lynn Creecy.

MR. SHAPIRO: Good evening, Madame Chair and members of the Committee.

MADAME CHAIRPERSON: Good evening.

MR. SHAPIRO: My name is Steve Shapiro. I live in Bethesda. A few years back during previous redistrictings, I lived in Silver Spring right along the Prince George's-Montgomery County border. And at that time, I had similar concerns that you've heard tonight to the way the current 4th District was [20] established as far as a relatively small piece of ribbon in Montgomery County was joined by a ribbon to a piece, larger piece, in central Prince George's County. That basically disenfranchised many of us who lived in the smaller Montgomery County section.

And I was particularly concerned, not that we were being paired with Prince George's County, but that we were being paired with a part of Prince George's County that was not adjacent to where we lived. If we had been moved with our neighbors in Adelphi, Beltsville, Laurel, that would have been a much more compact, reasonable looking district than to merge us with areas much further to the south with a narrow ribbon.

I understand there are even maybe more egregious similar situations in the Baltimore region, more so than just in the Montgomery and Prince George's County area. But I urge the Committee, also, to try to establish a little bit more compactness. [21]

Ideally, Montgomery County, with its fairly large population, would have one district entirely within its borders and share about one half of a district with an adjoining part of the state. A reasonable option to do this would be to maybe take the western third of Montgomery County and pair it with Western Maryland, which, based on history and geography, would be a reasonable situation and one that existed several decades ago. Keeping the Montgomery section about equal in size to the Western Maryland section I think would keep it from being overly dominated by the Montgomery section and, thus, would be fair to the

Western Maryland residents, as well as to the Montgomery County residents.

And another option, if that wouldn't work, would be to take the eastern third of Montgomery County and pair it with its immediate neighbors adjacent to either Prince George's or Howard County. But in any event, one district in Montgomery and then [22] half of a district with immediate neighbors adjoining either to the west or to the east.

In some respects, the current congressional districts have made my job as a Democratic precinct chair a little bit too easy. As others have said, my candidates almost always win, at least in the general election. That's not necessarily a bad thing, but I am concerned that it has decreased turnout and interest a little bit. Most of the discussions in the primary where most of the candidates tend to agree and there is little or no discussion in the general, where the result is usually a foregone conclusion.

I live in precinct 77 now, which is in between Friendship Heights and Glen Echo, not too far from the Potomac River, and I'd be pleased to be part of that western third of Montgomery if that would be split into the Western Maryland district.

I'd also like to speak briefly about the legislative redistricting. A decade ago, I had [23] proposed a study looking at more single member House districts. As you all know, it's up to the Governor and the legislature whether to split the senate districts into one, two, or three pieces on a case by case basis. I believe that smaller districts would help reduce the size of elections and increase interest in the elections and, also, reduce the interest in slights.

In fairly homogenous districts, I do note that many of my neighbors disagree with that and are perfectly

comfortable having three at-large. However, I think the single member district concept is even more important in places where there is a fair amount of diversity within a district where there may be significant variations, either due to political affiliation, racial makeup, other demographics, that it may make sense to keep populations from being unfairly diluted by spreading some of the current state senate districts into more one or two member [24] districts.

So, in closing, I appreciate you being here to listen to our views tonight and hope that, even in consideration of the other factors that I know you need to consider, if keeping districts a little more compact and cohesive could be something in the equation. Thank you very much.

MADAME CHAIRPERSON: Thank you.

MS. CREECY: Good evening. My name is Lynn Creecy and I'm a resident of Olney, Maryland.

MADAME CHAIRPERSON: Okay.

MS. CREECY: 2012 marks the 200th anniversary of the War of 1812, which Maryland is commemorating on its license plates. 2012 is also the 200th anniversary of the first gerrymandered districts by Massachusetts Governor Elbridge Gerry. I urge Maryland to commemorate this anniversary by eliminating the tortuously drawn boundaries of Congressional District 4.

August 6, 2011 *Baltimore Sun* article

Democrats eyeing Western Maryland
By Annie Linskey, The Baltimore Sun

AUGUST 6, 2011, 7:45 PM | POINT OF ROCKS

Ed Coile and his husband are true-blue Democrats. But they were thinking about saving money, not their congressional representation, when they decided to move from Washington to conservative Frederick County last year.

"Politics just didn't play a role," said Coile, 52, after getting off the commuter train at the tiny red-brick MARC station in Western Maryland on the Virginia border. "This is where we could afford to buy a house."

Democratic strategists in this part of the state, however, are thinking an awful lot about transplants from the Washington area such as Coile and husband Barry Stampler.

The strategists see them as part of a steady northbound population migration that will color this part of the state more Democratic over time. They want to radically redraw Maryland's congressional map to transform the 6th District, which has sent conservative Republican Rep. Roscoe G. Bartlett to Washington for 10 terms, into a toss-up.

Or, in the words of Frederick County Democratic Chairwoman Myrna R. Whitworth, testifying at a recent redistricting hearing: "My job is to turn Frederick blue."

Conversations about maps will intensify over the next two months as Maryland politicians turn their attention to congressional redistricting, the once-a-decade process of adjusting political borders to accommodate changes in the state's population.

A five-member panel appointed by Democratic Gov. Martin O'Malley is crisscrossing the state to hear opinions about redistricting. The panel, which includes state Senate President Thomas V. Mike Miller and House Speaker Michael E. Busch — both Democrats— is charged with recommending a map to O'Malley.

O'Malley could submit that plan or a map of his own to the General Assembly, which will meet in special session this fall to approve new districts.

The 9 percent growth recorded in Maryland in the 2010 Census means the state will retain its eight seats in the House of Representatives. But that doesn't mean the Maryland delegation will remain static: Redrawing the borders could give the state's majority Democrats a chance to unseat one of the two Republicans—or at least make their re-election much more difficult.

Rep. Steny H. Hoyer, the No. 2 Democrat in the House, has hinted that freshman Rep. Andy Harris, the Baltimore County Republican who represents the 1st Congressional District, would be the target.

Adding Democrats to the district could give former Rep. Frank M. Kratovil Jr. a shot at taking back the seat he held from 2009 to 2011. Kratovil has said he would consider the shape of the district in deciding whether to run again.

But after a series of redistricting meetings, it is clear that there is no consensus on that idea. Leaders in Prince George's County, a rich potential source of Democratic voters, have made it clear that they don't want to be part of the 1st District, which now is made up of the Eastern Shore and parts of Baltimore, Anne Arundel and Harford counties.

Western Maryland Democrats, meanwhile, want the mapmakers to target Bartlett.

The Cook Political Report, a nonpartisan newsletter that tracks congressional and other elections, gives Maryland a 50-50 chance of drawing a new Democratic seat in the House.

Maryland is one of the few states nationwide in which Democrats have the power this year to redraw congressional districts in their favor. Republicans control the process in 18 states. Democrats oversee it in six. Others are either divided between the parties or use a nonpartisan commission.

With Republicans here largely sidelined—one of the five panel members is a former GOP lawmaker—the real argument in Maryland is between different segments of the Democratic Party.

At first blush, Western Maryland isn't an obvious place for Democrats to seek inroads.

The 6th District, made up of Allegany, Carroll, Frederick, Garrett and Washington counties plus parts of Baltimore, Harford and Montgomery counties, has been the most reliably Republican district in the state over the past two decades.

Even in years that were difficult for GOP candidates elsewhere, Bartlett, a member of the House Tea Party Caucus, has routinely won re-election by 20-point margins.

But Bartlett, 85, is a lackluster fundraiser, which has led some Democrats to argue that he would not have the means to introduce himself to a new group of voters should his district take a different shape.

Helping to fuel their optimism is the victory last fall by Democrat Ronald N. Young, a former Frederick mayor, over conservative Republican state Sen. Alex Mooney in Frederick and Washington counties.

Democratic Party strategists say the influx of 48,000 transplants from the capital area over the past decade is leading fast-growing Frederick County to tilt toward the politically liberal Washington suburbs.

About one-third of the 131,000 people who moved to Frederick County in the past 10 years came from Montgomery County, according to Internal Revenue Service data.

The MARC's Brunswick line, which runs from Washington's Union Station to Martinsburg, W.Va., has seen a 34 percent increase in train ridership in the past decade, and there are roughly 10,000 more cars per day on Interstate 270 than 10 years ago.

Nowhere is the growth more apparent than in the rolling developments in Urbana, the first exit off I-270 in Frederick County.

Ten years ago, local Realtor Mary Richeimer said, the community was "a tiny crossroads." Then a developer turned a stretch of corn and soy fields into The Villages of Urbana, a 3,000-unit planned community that includes hiking trails, tennis courts, two pools, a library and a shopping strip with a grocery store.

It's not the only one. Half an hour down the road is Brunswick Crossing, another gleaming development sprouting out of farmland.

"The county's population has changed so much," said Boyce Rensberger, a Democratic activist who spoke at the redistricting meeting.

The picture is disputed by Republicans, including the one who represents the district.

"I have a very rural, agricultural district," Bartlett said in a recent interview. "It has nothing to do with the suburbs of Washington. ... Small towns, volunteer fire companies."

Bartlett said redrawing his district to take away the Central Maryland portion and include more of Montgomery County would be "crazy."

"What in the heck relationship does Garrett County have to the Washington suburbs?" he said. "Or Allegany County or Washington County?"

One person who could benefit from a more Democratic 6th District is state Sen. Robert J. Garagiola, a Miller favorite who represents northern Montgomery County.

Garagiola said he's "watching closely" how the congressional district is being redrawn as he decides whether to challenge Bartlett.

"I would not run for the sake of running," Garagiola said. "If I ran, it would be to win."

A glance at the spaghetti-like tangle of congressional lines in Central Maryland shows that the state's Democratic mapmakers haven't minded cutting through communities to consolidate political power. And the Republican Party will have little voice in the process.

The current districts were drawn 10 years ago under then-Gov. Parris N. Glendening. He said in a recent interview that he was guided by two objectives: Keep the four influential Democrats from Maryland who were in office at the time and add more.

"There is no way to describe them other than political goals," Glendening said. "Redistricting, by definition, involves partisan politics."

He asked for a map that would flip two of the four seats held by Republicans from red to blue.

The "real challenge," said Glendening, was persuading the Democratic incumbents to accept districts that would be slightly more difficult to hold—a neces-

sary sacrifice to make the Republican districts more winnable.

"They were used to winning 70 percent of the vote and still wanted that," Glendening said. "We had to sit down with them and say, 'In order for [then-Baltimore County Executive C.A. Dutch Ruppersberger] to have a real running shot, you need to give up some of these areas.'"

In the end, Glendening's map did what he wanted. Ruppersberger beat Republican former Rep. Helen Delich Bentley in 2002 to win the district held until then by GOP Rep. Robert L. Ehrlich Jr., and Democratic state Sen. Chris Van Hollen beat Republican Rep. Constance A. Morella to give the Democrats six of the state's eight House seats.

Glendening had considered a plan to make Western Maryland more Democratic by pulling the district down into Montgomery County. But he decided against it, in part because it would have been difficult to draw without disrupting every other congressional district.

And that will be the challenge for mapmakers now: Reshaping the district would upset the delicate balance that has kept at least six Maryland Democrats in the House for each Congress of the past decade.

Altering the 1st District does not trigger the same domino effect in the rest of the state.

Raquel Guillory, a spokeswoman for O'Malley, said the governor is waiting to hear from the redistricting panel before he makes any decisions.

The group has heard a consistent set of messages.

As Western Maryland Democrats plead for a more competitive district, Democrats in Central Maryland are playing defense: They do not want to be corralled into a newly redrawn and sprawling 1st District.

Sharon Taylor of Bowie summed up the sentiment at a recent hearing in Prince George's County. She drew applause when she said African-Americans shouldn't be used as "filler" to help elect far-flung congressional representatives.

"Prince George's County cannot be the sacrificial lamb," she said.

July 12, 2011 *Center Maryland* article

Josh Kurtz — Sources: Congressional Delegation Dems Eye Bartlett As Redistricting Target

Rep. Steny Hoyer (D), the dean of the Maryland Congressional delegation and the No. 2 Democrat in the House of Representatives, is a wily legislative veteran, a master of the deal, and used to getting his way.

Rep. Donna Edwards (D), a fiery liberal with three years of Congressional experience under her belt, is known more for her political passion than her insider prowess.

But Edwards appears to be trumping Hoyer, according to multiple sources, when it comes to convincing their Democratic colleagues in the delegation which of the state's Republican-held seats to target in the upcoming redistricting process. And for now, at least, it looks as if a consensus is forming that they ought to go after Rep. Roscoe Bartlett (R) rather than Rep. Andy Harris (R).

Gov. Martin O'Malley (D) recently appointed a redistricting commission to help state lawmakers draft new Congressional and General Assembly maps. The governor and legislative leaders will have plenty of say over how the state's new boundaries will look.

But when it comes to Congressional lines, which will likely be adopted in a special legislative session that will convene in mid-October, the six Democrats in Maryland's House delegation will be accorded much sway.

And at the moment, sources say, despite Hoyer's plea to make the 1st District more Democratic to pave the way for a comeback for former Rep. Frank Kratovil (D), the delegation—with Edwards as one of the prime advocates—is close to signing off on a map that would

instead give Democrats at least a 50-50 chance of capturing Bartlett's district in the near future.

In Annapolis and in Washington in recent months, it's become accepted wisdom that Maryland Democrats, under pressure from national party leaders looking for the two dozen seats they need to retake the House in 2012, will attempt to move the delegation to a 7-1 seat Democratic advantage, up from the current 6-2.

The question for Democrats has been whether to go after Bartlett in the Western Maryland-based 6th District, or whether to go after Harris' Eastern Shore-based 1st District seat.

Both districts are Republican strongholds as currently drawn. Both gave Barack Obama just 40 percent of the vote in the 2008 White House election as he was racking up 62 percent statewide. But with clever manipulating, Democrats figure they have a decent shot of stealing one of the Republican seats, with minimal risk to their incumbents.

Hoyer has urged his colleagues to facilitate a comeback for Kratovil, who held the 1st District seat before being ousted by Harris in 2010—and who, by the way, is an old family friend of Hoyer's. The minority whip argued that Kratovil was a talented member who took some tough votes for the Democrats—including supporting the cap-and-trade bill—and deserved a chance to represent a friendlier district.

But Edwards made the case, according to sources, that Kratovil's 2008 win was a fluke—and that even bringing the 1st District across the Bay Bridge into Prince George's County or Baltimore City might not provide enough Democrats for Kratovil to win. She also argued that that adding African-American voters into an Eastern Shore district was the wrong thing to do, especially with the city losing one-twentieth of its pop-

ulation over the past decade. And she pointed out that Kratovil's voting record may not have been sufficiently progressive—he voted against health care reform, for example—to captivate base Democratic voters.

Edwards has apparently been working with a redistricting expert as the delegation has been deliberating the redraw. She also is reportedly willing to take on deep Republican territory in Anne Arundel County (while keeping turf in Prince George's and Montgomery counties) to help the Democratic cause. It's easy to be magnanimous when you won your last election with 83 percent of the vote.

So for now, the fragile consensus in the delegation seems to be to draw a new 6th District that runs roughly from Rockville to Oakland, a driving distance of about 170 miles. The 1st District would then take in all of the Eastern Shore and extend into conservative Carroll County, all but guaranteeing Harris a safe seat for the next decade.

A new 6th District would present a golden opportunity for some Democrat—presumably state Senate Majority Leader Rob Garagiola—to run and win. Democratic leaders feel that if they set up a tough general election, Bartlett, who will be 86 on Election Day 2012, and last faced a tough Democrat in 1992, will choose to retire. And they believe that Maryland Republican Chairman Alex Mooney, at this point the nominal frontrunner in any GOP primary to replace Bartlett, is beatable.

Even if they fall short in 2012, Democrats believe that with the cities of Frederick and Hagerstown trending slowly their way, a "Western Maryland" district anchored by Rockville and Gaithersburg is gettable sooner rather than later. And there's precedent for it: after all, the district that the Byrons—Goodloe and

Beverly—represented from the early 1970's to the early 1990's was not dissimilar.

A decade ago, Democratic leaders hotly debated whether to split Montgomery County roughly the same way, to create opportunities for Mark Shriver, the protégé of then-Maryland House Speaker Casper Taylor (D), and Chris Van Hollen, the protégé of state Senate President Mike Miller (D).

Ultimately, then-Gov. Parris Glendening (D) chose instead to create a Democratic-leaning district based in Baltimore County, a reward for term-limited County Executive Dutch Ruppersberger (D). Shriver and Van Hollen had a dramatic showdown in the principal Montgomery County district—with Van Hollen pulling the upset.

If a new 6th District is created, it'll be interesting to see whether any name Democrats besides Garagiola take a shot at it—though no names have circulated at present. It'll also be very interesting to see how Bartlett, who just announced his intention to seek reelection last week, will react. As of March 31, he had $247,000 in his campaign account.

As for Kratovil, with the option of running for his old seat cut off, he'll have to decide whether he wants to run for something else in the near future—like attorney general or comptroller. There's also the possibility that he could be tapped to be Maryland's next U.S. Attorney, assuming there's a second Obama administration.

Nothing is written in stone until the legislature passes a bill and O'Malley has signed it. Even then, the Congressional map could be subject to a legal challenge.

But for now, at least, it looks as if Donna Edwards has outmaneuvered Steny Hoyer—and that Frank Kratovil, as a result, may be the odd man out.

Emails from Sharon Strine

From:	Allyson McMahon <allymcmahon@verizon.net>
Sent:	Tuesday, April 08, 2014 12:31 PM
To:	Maria Pycha; Sharon Strine
Subject:	exec letter draft
Attachments	ExecLetter.docx; CampaignInfo.docx

[BLANK IN ORIGINAL]

Bongino For Congress
2014 Campaign Information

Campaign Organization:

The Bongino for Congress campaign's top tier staff consist of the following individuals: Campaign Manager—Sharon Strine; Finance Director—Maria Pycha; Media Director—Karla Graham; Communications Director—Jim Petit; and Director of Operations—Ally McMahon.

In addition, Team Bongino includes a Volunteer Coordinator, Campaign Coordinator, Deputy Finance and Operations Managers, Political Directors, Grassroots Coordinator, Precinct Analyst, and County Coordinators for each of the 5 counties represented in the district (in whole or in part), as well as over 200 active volunteers who have committed to staffing Bongino campaign events and grassroots efforts.

Fundraising Profile:

The District:

Maryland's 6th Congressional District comprises all of Garrett, Allegany, and Washington counties, as well as portions of Montgomery and Frederick counties. According to the Charlie Cook Partisan Voting Index in 2012, it is a D+2 district due to redistricting. It is worth noting that it was D+2 when President Obama was at the top of the ticket. From 1982- 2012, Republican Roscoe Bartlett represented the district, winning re-election overwhelmingly each year. Despite the D+2 registration rating, analysis of voter registrations shows a larger than average number of Independents who typically identify as fiscal conservatives.

The Opponent:

John Delaney is a first-term congressman with no prior political experience. He won both the Democrat Primary and General Election by presenting himself as a fiscal and social moderate and political 'outsider'. Since his election, Delaney has maintained a liberal voting record, voting with Nancy Pelosi and Harry Reid over ___% of the time. His steadfast support of the Affordable Care Act, even in light of its striking unpopularity, is seen as a primary weakness during his 2014 re-election bid.

It is important to note that while he has touted himself as one who would like to reach across the aisle on fiscal policy as it relates to Wall Street, Delaney has been unable to move his proposed legislation forward due to his minority party status. This is seen as an area of weakness, as the House or Representatives is expected to remain firmly in Republican hands through the next several election cycles.

While he maintains a relatively small individual donor profile, Delaney has the ability to self-finance. We will

need significant resources to compete in the expensive media market of Montgomery County.

Earned media:

Dan has garnered national attention through book sales, guest hosting talk radio programs such as WMAL's Mornings On The Mall and The Chris Plante Show, as well as nationally syndicated shows such as the Sean Hannity and Mark Levin Radio Shows. Dan has also maintained his role as a pundit and security expert for several Cable News channels. Dan was named a Top Conservative Under 30 by the American Conservative Union, and was asked to speak at the 2014 CPAC Convention. His was touted one of the best Thursday speeches, and has been widely viewed online and shared throughout social media outlets.

Dan's public statements can be seen here:

Links to Dan's speeches

From:	Bob Farmer <bofar@comcast.net>
Sent:	Wednesday, June 26, 2013 5:15 PM
To:	Sharon Strine
Subject:	Re: Dan's residence?

Sharon, Congressman Bartlett did live in the old D6 & that's what I'm referencing in my email.

Bob

On 6/26/2013 3:33 PM, Sharon Strine wrote:

Hi Bob,

To be honest, no one who ran including Congressman Bartlett lived in the newly redistricted D6 in 2012. The

redistricting is a major issue for all of us. Thank you for getting back with me.

Sharon Strine
Deputy Campaign Manager
www.bongino.com
sharon@bongino..com
301-293-1281

From: Bob Farmer [mailto:bofar@comcast.net]
Sent: Wednesday, June 26, 2013 3:30 PM
To: Sharon Strine
Subject: Re: Dan's residence?

Sharon, I did get a response & I am disappointed that my cong. rep. does not have to live in my district. I must have assumed that all of the previous rep.s did live here in the 6th district & that it was a requirement. I'll have to think about my support for Dan now. I'm sorry that he is not my senator now.

Bob

On 6/26/2013 12:22 PM, Sharon Strine wrote.

Hi Mr. Farmer,

I just wanted to check if you had received a response. If not, I would be happy to answer your question. It is not a requirement that you live in the district to run. As a matter of fact, your current Congressman does not live in District 6. Dan loves Western Maryland and his supporters are over the top excited for him to become their next congressman.

Please let me know if I can help you with anything else.

Thanks so much for asking!

Sharon Strine
Deputy Campaign Manager
www.bongino.com
sharon@bongino..com
301-293-1281

From: Bob Farmer [mailto:bofar@comcast.net]
Sent: Tuesday, June 25, 2013 4:30 PM
To: finance@bongino.com
Subject: Dan's residence?

It's my understanding that my congressional representative must live in my congressional district, #6. If Dan still lives near Severna Park, that is another district. I'd be happy to contribute to Dan's campaign needs, but only if he can meet the necessary requirements for congressional representative.

Bob Farmer

* * *

From: Jeff MIller <rjefmiller@comcast.net>
Sent: Monday, August 26, 2013 5:54 PM
To: Sharon Strine
Subject: Re: Are you free August 30th?

Sharon,

Please call me at 301-363-7100...

I had a conversation with Dan earlier, and I am not going to hit a "pinata with hornets coming out of it". I'm not at all sure this would be in my best interest, and would like to discuss.

Jeff Miller...

"When we walk to the edge of all the light we have and take the step into the darkness of the unknown, we

must believe that one of two things will happen. There will be something solid for us to stand on, or we will be taught to fly."

Patrick Overton

"Gun control is like trying to reduce drunk driving by making it tougher for sober people to own cars."

From: "Sharon Strine" <sharon@bongino.com>
To: "Jeff MIller" <rjefmiller@comcast.net>
Sent: Monday, August 26, 2013 5:43:57 PM
Subject: RE: Are you free August 30th?

Hi Jeff,

Would you happen to have Ted Weaver's phone number? I talked to Dan about our conversation today and he told me to schedule a follow-up. He and Ted talked about 2 months ago on 2A and other issues. Dan would like to call him and get his opinion on some policy.

Thanks for the great conversation today!!

Sharon Strine
Deputy Campaign Manager
Bongino for Congress
P.O. Box 1330
Frederick, MD 21702
www.bongino.com
sharon@bongino.com
301-748-6197

From: Jeff MIller [mailto:rjefmiller@comcast.net]
Sent: Monday, August 26, 2013 12:00 PM
To: Sharon Strine
Subject: Re: Are you free August 30th?

If you wish to speak with me, I can be reached at 301-363-7100 after 1:00 PM.

I will share what I can, but you may have misunderstood what I wrote. This was a Second Amendment group that wanted to support Dan. Before they would, they asked for a Second amendment stance in writing. When they asked if Dan would support their efforts, the response was that after they held a fund raiser he would consider it. To me, this is just "pay to play", a standard political trick.

As I was presenting him as a man of honor who did NOT play this way, and was a man of conviction, this not only went against what I believed was true, but made me look foolish at the same time.

I received this information in confidence, and am unsure how to share this information with you, but I am willing to give you my thoughts. I am also in Delaney's MD 6th district, which was gerrymandered by O'Malley to remove Roscoe Bartlett. At this point my trust in Government and Specifically Maryland representation is so low that I am considering moving from the state.

I am a Second Amendment Voter who is somewhat disappointed in the fact that no strong WRITTEN statement seems to be made by the candidate. I have listened to him speak, but at this point I feel if it's NOT in writing, It doesn't hold any commitment.

Having been lied to for so long, Cynicism is becoming a way of life when dealing with ANY candidate.

Jeff Miller...

"When we walk to the edge of all the light we have and take the step into the darkness of the unknown, we must believe that one of two things will happen. There

will be something solid for us to stand on, or we will be taught to fly."

Patrick Overton

"Gun control is like tying to reduce drunk driving by making it tougher for sober people to own cars."

From: "Sharon Strine" sharon@bongino.com
To: "Jeff MIller" rjefmiller@comcast.net
Sent: Monday, August 26, 2013 11:02:16 AM
Subject: RE: Are you free August 30th?

Good Morning Mr. Miller,

I would be interested to talk with you regarding the organization you are associated with. We are not working with any other groups. That being said, organizations that support Dan may be supporting him by sending the information about this fundraiser.

If you would like to meet Dan in a non-fundraising setting he is all over Garrett, Allegany, Washington, Frederick and Montgomery Counties. I would be happy to let you know when he will be near your home for future events.

Please give me a call if you would like to talk.

Thanks!

Sharon Strine
Deputy Campaign Manager
Bongino for Congress
P.O. Box 1330
Frederick, MD 21702
www.bongino.com
sharon@bongino.com
301-748-6197

From: Jeff MIller [mailto:rjefmiller@comcast.net]
Sent: Monday, August 26, 2013 10:53 AM
To: campaign@bongino.com
Subject: Re: Are you free August 30th?

Dan,

While I am free on August 30, I will NOT attend any more of your events. If it cost me $100 to see you, I cannot afford to support Dan. I was also appalled when another organization I am associated with, asked for your support and received a response that after they held a fund raiser for him, he would consider it.

If we have to BUY support, then this is just Chicago Style "Pay to Play" wearing a different suit.

I cannot express how much this soured me... I don't know if this response came from Dan, or was the advice of staff, but either way, I am VERY disappointed.

Jeff Miller...

'When we walk to the edge of all the light we have and take the step into the darkness of the unknown, we must believe that one of two things will happen. There will be something solid for us to stand on, or we will be taught to fly."

Patrick Overton

"Gun control is like trying to reduce drunk driving by making it tougher for sober people to own cars."

From: "Dan Bongino" campaign@bongino.com>
To: rjefmiller@comcast.net
Sent: Monday, August 26, 2013 10:09:23 AM
Subject: RE: Are you free August 30th?

Are You Free August 30th?

My Invitation

Dear friend,

The kids may be heading back to school and the warm days of summer coming to an end, but my campaign for Congress is just getting started. I'd love to have the chance to meet you and tell you about my plans to return common sense to its rightful place in the halls of Congress.

Are you free to join Paula and me this Friday, August 30th, for a night of conservative fellowship and fun? We have a terrific evening planned, and we want you to join us.

When: Friday, August 30, 2013
7:00 p.m. - 9:00 p.m.

Where: Whiskey Creek Golf Club
4804 Whiskey Court
ljamsville, MD 21754

Please go here to find out how you can take part in this event. I want you to be a part of my campaign from the very beginning.

Like you, I am just an ordinary citizen who is fed up with the steady stream of nonsense - and worse - that is coming out of Washington every day.

I have spent the last few years talking at length with passionate conservatives like you. As a result, I am taking a radical approach that surely will not sit well with the political class.

Through my recently announced Citizen Contract, I have pledged to:

- Serve in Congress for only three terms

- Donate half my Congressional salary to charity
- Reject spending your tax dollars on Congressional junkets
- Vote down any piece of legislation that exempts the political class

You and I have a choice to make. Are we content to sit back and complain? Or are we going to fix this mess?

Let's gather in Ijamsville this Friday to discuss how we can work together to craft meaningful change for Maryland and our fellow Americans.

It's time that We the People give the DC elites a one-way ticket out of town.

If you can't join us this Friday, would you please consider making a generous donation today of $25, $50 or even $100? These early days are when your donation can have the greatest impact. Of course, if you could dig a little deeper and send $250, $500, or $1000, we'll be that much closer to taking back Washington, D.C.

I can win this race. I will win this race. But I need your help today to do it.

I hope to see you in Ijamsville this Friday!

Sincerely,

Dan Bongino

P.S. I've gone ahead and attached the invitation to the Ijamsville event—I'd really appreciate if you'd help spread the word about this event and about my campaign. These early days are so important in setting up the foundation on which we will build a grassroots victory in November of 2014. Thank you for your support!

* * *

Dan Bongino was the 2012 Republican Nominee for the United States Senate in Maryland. He served for over a decade in the United States Secret Service as a special agent and is currently a small businesses owner with his wife Paula.

Q. Good morning, Mr. Eyler.

A. Hi.

Q. My name is Jennifer Katz, and I'm an Assistant Attorney General with the Attorney General's Office, and I represent the defendants in this case.

A. Um-hum.

MS. KATZ: I'm going to have your counsel introduce themselves for the record.

MR. STEIN: Micha Stein from Mayer Brown representing the plaintiffs and the witness.

MR. MEDLOCK: Stephen Medlock from Mayer Brown representing the plaintiff and the witness.

Q. Okay. I'm just going to show you—I think [6] we're doing this in order, and I think we're up to number 14.

MR. MEDLOCK: Yes.

MS. KATZ: Exhibit 14. Is that correct?

MR. MEDLOCK: That's right.

Q. I'm just going to show you what's going to be marked as Exhibit 14 and give a copy to your counsel. Have you seen this document before?

A. Yes.

Q. Okay. And are you the subject of this deposition notice?

A. Yes, I am.

Q. Okay, great. Just do you still reside at this address that's listed here, 13249 Creagerstown Road—

A. I do.

Q. —in Thurmont? Okay, great. Thank you, very much. Mr. Eyler, have you ever been deposed before?

A. No.

Q. Okay. So I'm just going to go over a couple of brief housekeeping rules. So because the Court [7] Reporter is trying to take down everything that we say, I'm going to ask that you wait until I finish a question to give an answer, and then I'll wait until you're done giving an answer to ask another question. In other words, we won't talk over each other. And I'm going to ask that you provide verbal answers to questions for the benefit of the Court Reporter. If you don't understand a question that I ask, please ask me to clarify. If you don't tell me that you don't understand I'm going to assume that you do.

And we're going to try to make it through without a break, I don't think this will take very long, but to the extent you need to take a break, please let me know and we will find a good place to stop.

So I just want to make sure that you feel that you're able to testify today. Are you taking any medication that may affect your ability to testify or recall matters?

A. I'm taking medication for a disease that I have, but it is not anything that affects my mental [8] ability.

Q. Okay, great. Thank you, very much. So we just sort of went over your current address in Thurmont. How long have you lived there?

A. Since 1976.

Q. Oh.

A. At the same address.

Q. Okay.

A. And before that—I was born there and lived there till I went away to college.

Q. At that same address?

A. No, at a different address. My parents' home. But I've lived in Thurmont—except for college and graduate school I've lived there all my life.

Q. Where did you attend college?

A. Catawba College and then Penn State.

Q. Where is Catawba College?

A. Salisbury, North Carolina.

Q. Oh, okay. All right. So you started in North Carolina and you finished at Penn State?

A. Yes, I did.

Q. And what did you get your degree in? [9]

A. Music and theater. And then I just did the technical theater at Penn State.

Q. Wonderful. And you mentioned graduate school. Where did you attend graduate school?

A. That was Penn State.

Q. Oh, that was Penn State.

A. That was graduate school.

Q. Sorry. And are you currently employed?

A. No, I retired in 2014.

Q. What did you retire from?

A. I taught for 16 years in the public school system and then I started a business and had that for—well, it overlapped with the teaching, but I did that for over 30 years. And then after 2007, which affected all of us, it took a long time, but I finally retired in 2014.

Q. Okay. What kind of business did you run?

A. Actually I ran the first closet organizing business in Western Maryland.

Q. Oh.

A. It started in 1982 and continued that till [10] 2014.

Q. That's fascinating. And what did you teach?

A. I taught music and theater.

Q. What grades? Just out of curiosity.

A. Seven through 12, but mostly high school.

Q. I bet that was a fun job.

A. It was a fun job that I finally had to give up when my children were born because it's a lot a lot of hours, many hours.

Q. We all can relate. Do you recall when you first registered to vote?

A. When I came back from college, and I think it was for sure 1972. I believe we have records to that.

Q. Okay. And so you said when you came back from college. Were you living in Thurmont at that time?

A. No, I came back from college—we lived in Frederick at the time, and we rented in Frederick.

Q. Okay. And do you recall what congressional district you were living in at that time?

A. I think it was all in the 6th District at [11] that time. I believe.

Q. And do you recall who your congressional representative was at that time?

A. I believe it was Beverly Byron. She was a Democrat.

Q. When you first registered to vote in 1972 do you recall how often you voted?

A. With a few exceptions, and I'm not even sure if there are any exceptions, I voted every year. Every cycle.

Q. Up to the present?

A. Yes.

Q. And when you say every cycle does that include primary elections?

A. I was registered as an Independent from '72 until approximately 2001. And my wife and I both decided at that time that we—in order to be able to vote in the primaries we decided to register as Republicans.

Q. So between 1972 and 2001 when you were registered as an Independent, I just want to make sure I understand your testimony, during that time [12] you believe that you voted in every general election?

A. That's correct.

Q. Okay. And does that include presidential—general presidential elections?

A. Certainly.

Q. And gubernatorial elections?

A. Certainly.

Q. And do you recall if you always voted for your—for a congressional representative?

A. Yes, certainly.

Q. Okay. Since 2001 when you've been a registered Republican have you voted in the primary elections?

A. Yes.

Q. Do you think all of them that you've been able to vote in?

A. Yes. We are very good at voting.

Q. Do you recall ever missing an opportunity to vote?

A. Not really, no.

Q. Okay. [13]

A. I mean it's possible, but in the last 40 some years, I don't think so.

Q. So just so I'm clear, did you vote in the 2012 primary election?

A. Yes.

Q. And the 2012 general election?

A. Yes.

MR. STEIN: Can you clarify which primaries?

MS. KATZ: I think I said 2012 primary election.

MR. STEIN: I mean presidential or—

MR. MEDLOCK: Congressional.

MR. STEIN:—congressional.

A. I voted in both the Maryland and the congressional and the presidential. I voted in all of the categories in that cycle of 2012.

Q. And would you say the same for the 2016 cycle?

A. I would.

Q. And in 2014 did you vote in the primary election for governor?

A. Yes. [14]

Q. And did you also vote in the primary election for congressional representative in 2014?

A. Certainly.

Q. And did you vote in the general election in 2014?

A. Yes, ma'am.

Q. Okay. Thank you. So I believe you told me that from the time you registered to vote in 1972 until 2001 you were registered as an Independent?

A. That's correct.

Q. Throughout that entire time you were registered as an Independent?

A. I was.

Q. Okay. And since 2001 to the present you're a registered Republican?

A. That's correct.

Q. And has that changed from 2001 to the present?

A. No.

Q. Have you always been registered as a Republican?

A. Yes. [15]

Q. Have you ever voted for a candidate who was not a Republican?

A. Yes.

Q. Do you recall when?

A. Do you mean recently or do you—

Q. Let me ask you this. Do you recall the first time you voted for a candidate who was not a Republican?

A. Yes. And I can't tell you exactly what year, but I voted for Beverly Byron who was the Democratic representative. Other than that I can't think of another Democratic candidate that I voted for on that level.

Q. On the level of congressional representative?

A. Yes, ma'am.

Q. Okay. And do you recall ever voting for a Democratic candidate that was not a candidate for your congressional representative?

A. For presidential candidates I voted for two Democrats recently, Obama and Clinton. Obama twice and Clinton. I don't recall ever voting for a [16] particular party while I was an Independent, if you see what I'm saying. I can't remember exactly who I voted for, but it was possible that I voted for a Republican in one cycle and a Democrat in the next at that point.

Q. And I just want to clarify. When you said Clinton in your prior answer are you referring to Hillary?

A. Hillary Clinton.

Q. Do you recall if you voted for Bill Clinton?

A. I don't think so.

Q. Okay.

A. I'm almost certain that I voted Republican then. I can assure you actually that I didn't.

Q. Do you recall if you voted for Beverly Byron more than once?

A. I don't. But I think it was probably more than once because I recall when she was defeated in the primary, which was a big upset, and when Roscoe Bartlett. That's been quite awhile ago, though.

Q. Okay.

A. But I voted for either her husband or her in [17] that time period from '72. I mean they were the only Democrats that I recall voting for as congressional representatives.

Q. And just to be clear, when you referred to her husband did you mean Goodloe Byron?

A. I did.

Q. Okay, thank you. Why did you vote for Goodloe Byron?

A. I knew the family. I grew up, of course, above northern—in the northern area in Maryland above Frederick, but I knew many people, of course, in Frederick County. And the Byron family was one of them. As a matter of fact, I knew many of the kids in the area because I was about the same age.

Q. And when you recall voting for Beverly Byron do you recall why you voted for her?

A. I do because she was a Frederick County native, and she had strong support even as a Democrat in the county because she was—she and her husband were both proficient at providing good representation.

Q. How do you define that, providing good [18] representation?

A. They were familiar with—as natives they were familiar with the county, the residents both north, east, south and west, and the city of Frederick. And they were very aware of—they were very aware of the groups and types and I guess of who they were representing. I think that's probably it. In other words, they could tell you specifically what went on in this town and that section and the farms over there. In other words, they knew the area because of their background. And we all knew that they knew us.

Q. Okay. You referred to Beverly Byron's primary defeat?

A. Um-hum.

Q. Do you recall if in that year if you voted in the general election for Roscoe Bartlett?

A. I did.

Q. Okay. And do you recall whether you voted—ever voted for someone other than Roscoe Bartlett when he was on the ballot?

A. No. [19]

Q. Okay. In 2012 do you recall who you voted in the general election to be your congressional representative?

A. I voted for the Republican candidate at that time.

Q. The same question for 2014.

A. The same.

Q. And then the same question for 2016.

A. Yes, ma'am, the same.

Q. What are the qualities that you look for in a political candidate?

MR. STEIN: Object. Vague.

A. I think their knowledge of the communities that they are going to serve is paramount and certainly their—the approach to their representation. In other words, are they going to be able to recognize in their district all of the segments and be able to give each of those proper representation. I believe that's a big—a very large part of this, being able to cover the area that they are elected to cover.

Q. Thank you. Have you ever attended an event [20] held by your congressional representative?

A. Well, not by congressional, no. I have attended state representative events but never congressional, no.

Q. And I realize that you've been represented by a congressional representative for a number of years now.

A. Yes.

Q. So I'm asking you to think back into the 1970s if you can recall ever having attended an event.

MR. STEIN: I will object as vague.

Q. Yeah. Do you recall ever having attended an event held by either your congressional representative either when you first registered to vote up to the present?

A. No. I'm certain of that.

Q. Okay. Have you ever volunteered on a campaign for a political candidate?

A. I have. David Brinkley is a friend of mine. And I believe he started his political career about 20 years ago. He's currently, of course, the—[21] well, you know who he is. He's the one that pays you. Or gives you your budget.

Q. Was that the only campaign?

A. Yes. Really it is.

Q. Okay. And so you probably inherently answered this. But have you ever worked as a paid employee on a campaign?

A. No, I have not.

Q. Have you ever worked as a paid employee for a politician in any form?

A. No, I have not.

Q. Okay. And again, I'm asking you to recall a significant period of time. But do you recall ever contacting any of your congressional representatives constituent services?

A. I would say that in the period of 40 plus years that my wife and I have sent letters or responses to our congressional representatives. I can't tell you now what the objective was at that point, but we have, in fact, responded to whatever the issue was at the time.

Q. Can you recall with specificity any of those [22] letters that you may have sent?

A. No. There have been so many issues that I simply couldn't put into words which ones were specific.

Q. And when you say issues, I'm just trying to get a sense of what that means. Does that mean issues that were personal to you, things that you may have needed help for from your representative?

A. Well, let's say the redistricting issue. That's the type of thing that I would respond to and ask my

congressional representative to pursue the reason why it is what it is at this moment.

Q. So when you say issues do you mean political?

A. I mean political issues, yes.

Q. Thank you.

A. That all are aware of. And that become issues. Hot issues. The issue of the day.

Q. At the very least, issues that were important to you, right?

A. Yes, that's correct.

Q. Okay. And so you mentioned redistricting. [23]

Do you recall—do you recall specifically writing a letter about redistricting?

A. I do not.

Q. Okay. And you don't recall any particular issue specifically that you may have—

A. On redistricting at this moment? Well, you have to realize that during the '70s, especially in the '80s and the '90s—let's face it, every decade has its issues, but I think that these were broader issues, national issues, things that many people responded to. I would not say that these were something that I wrote to and said a tree just fell on my house. Can you help me?

Q. Okay, great. Thank you. Do you recall if you've written any such letters since 2012?

A. No, I have not.

Q. Do you recall if you've contacted your congressional representative in any way since 2012?

A. No, I haven't. And I guess I could skip to the fact that I was almost assured that it didn't matter if I contacted them because they probably wouldn't

know who I was, where I lived or what I was [24] asking about anyhow.

Q. Okay. Do you recall when was the first time you became interested in redistricting as an issue?

A. I would say from the beginning of the current redistricting and as it was looked—as it was looked into and finally got to the referendum. I mean all of that was an issue that I was interested in, of course, because I felt it was unfair to our community.

Q. And prior to the redistricting in 2011 that you're referring to did you have an interest in redistricting?

A. No.

MR. STEIN: Object as vague. Sorry. Go for it.

A. No. Frederick County as far as I know the 6th District had been in pretty much the same configuration for—I have no idea how many years.

But, you know, the 2011 redistricting was should I say much exaggerated from anything else I had ever seen or heard of. So it was quite a shock to me to see that the patterns that were evolved were there. [25]

Q. And when did you first find out about the 2011 congressional redistricting plan?

A. I read the newspaper, the local newspaper. And it was complete with the redistricting maps and so forth.

Q. Okay. Do you recall when you might have first read about it in the newspaper?

A. I do not. I will tell you that, of course, the latest was probably in what, the beginning of 2016, after this initial trial that this law firm handled before the Supreme Court I understand. I read the papers

and the same argument, not argument but the same models and the same patterns, the same maps and so forth that were being discussed at that time were just—well, they were presented basically the same way.

Q. Did you testify before the governor's redistricting advisory—

A. No.

Q. —committee? Did you post any public comments after the plan was revealed to the public?

A. No. [26]

Q. Do you recall if you voted—how you voted on the referendum involving the redistricting plan?

A. Well, I will tell you that the referendum as presented on the ballot was so manipulated, I guess is the term I might use, certainly was confusing. And if I can give my opinion I would say that most of the people that voted for the referendum didn't know if they were voting for or against it because it was so difficult to understand what your point was. In other words, did you say yes to not having it or no to having it? You see what I'm getting at? And I believe the referendum would have gone—I believe we would have voted—I say we. I think especially the voters in our district would have certainly voted against this current redistricting if we would have had a yes or a no answer to that.

Q. Do you recall if you voted—how you voted on that referendum?

A. I can't tell you if I voted yes or no, because I'm not sure to this day if I understood. When I walked out of the voting booth I had no idea, and I realized that no one else did. [27]

Q. Okay.

A. Have you read that paragraph?

Q. I have.

A. It's very tough.

Q. Do you recall—do you recall if before you stepped into the voting booth to vote on the referendum, do you recall knowing that the referendum was going to be on the ballot?

A. Yes.

Q. Okay.

A. I was pleased that it was.

Q. Great. Other than joining this lawsuit have you taken any action about redistricting after the passage of the 2011 plan?

MR. STEIN: Object. Vague.

A. No, I haven't taken any action except voting for the referendum, for or against or.

Q. Got it. Mr. Eyler, how did you first hear about this lawsuit?

A. Actually my son was a neighbor and a classmate of Michael Kimberly who is an associate of this law firm and—[28]

Q. I know him well.

A. Right. So this came up in a discussion at a family get-together, neighbor get-together, and I was aware that Michael had done the first—the Supreme Court part of this and that it's been kicked back to this point. That was all I was aware of until Michael said, "You're from the 6th District". Because he had been to my house and he knew that that's where we lived. And he said, "Would you be interested in being a plaintiff in this?". And I said certainly.

Q. And the Michael you're referring to is Michael Kimberly?

A. Michael Kimberly.

Q. And you may have talked about this to some agree. But why did you decide to join the lawsuit?

A. It's fairly simple. I'm still very much opposed to the redistricting of our area, and I thought if this is a means to an end that I would gladly help out.

Q. You said that your son was a neighbor of Michael Kimberly's? [29]

A. Yes.

Q. Who is your son?

A. Gus Eyler. He's also an attorney by the way. That's another—they all stick together.

MR. MEDLOCK: I'm going to object to your characterization.

THE WITNESS: Okay. Yeah, well.

Q. Do you think you were harmed by the 2011 congressional redistricting?

MR. STEIN: Object as vague and ambiguous.

A. I do.

Q. You can answer.

A. I do.

Q. How so?

A. I think that our region, if that's the right term, our community has not had the representation, may I say a more human level of representation, than when the 6th District was more inclusive and did not have that incredible attachment to Montgomery County which now exists.

Q. When you say human level of representation what do you mean by that? [30]

A. I mean that the representative of that area actually understands the area, visits the area, talks to the people. I'm talking about a background of understanding the—not just the geography but the sentiments more or less of the population in that area, which is something that had happened since I can recall living in Frederick County all my life. We always had a representative who was, may I just say, local and understood the county and the district. Now we have someone that certainly isn't too interested in our area because as a politician he understands that we are—we don't contribute anything to his wellbeing and I would say that it's just—he doesn't represent much to our wellbeing.

Q. Who are you referring to right now when you say he?

A. I think Van Hollen at this point.

Q. And on what do you base your statement that he isn't too interested in the area?

A. Because we're typically a Republican conservative group in the area and he has an overwhelming majority in Montgomery County. I don't [31] know what Montgomery County is, the percentage of Democratic voters, but I would say that it's—the amount of Democrats registered in Montgomery County far outweighs any Republicans registered in our small area in northern Frederick County. And the redistricting certainly split all of that up. I would say divide and conquer would be kind of the term I'm looking for.

Q. And you were just speaking about Chris Van Hollen; is that right?

A. Yes.

Q. Have you had any interactions or communications with him?

A. No. Chris Van Hollen, as far as I know, has been to our area one time. I wasn't able to make it, but he did have a sort of a town hall meeting at the library.

Q. And when you say our area, do you mean Thurmont?

A. I mean northern Frederick County and Thurmont specifically.

Q. Okay. And I know he was just sworn in [32] recently. But what about your new representative, Jamie Raskin, have you had any interactions with him?

A. I have no idea of what he has done or will do.

Q. Okay.

A. Yeah.

Q. You just know—what do you know about him?

A. Not that much to be perfectly honest with you. And that's I think the difference.

Q. Okay.

A. I don't know much about him.

Q. So you stated that somebody who is local or understands the area, visits the area, talks to the people there, those are the—is it correct to say that those are some of the qualities you look for in a candidate?

MR. STEIN: Object. Mischaracterizes the testimony.

A. I think that's actually what a politician is supposed to do.

Q. And so do those qualities matter more to you [33] than someone's political party?

A. Well, let me just state it this way. The political party in national elections, for instance, the presidential election, doesn't have as much gravity as local elections especially when you have neighbor-

hoods, or in this case an area. Let's say northern Frederick County and the old 6th District, which included Washington, Allegheny, Garrett. The people residing in that area are much more—well, they're certainly not the urban or suburban grouping that you might find in Montgomery County. So there is such an immediate difference to those who've lived here all their life. I've made 256 trips to Kensington in the last five years to visit my grandchildren. We figured it up the other day. But I don't in other terms have any dealings with Montgomery County, if you follow what I'm saying, and I think the reverse is true of the politicians and the people that deal with the district as it stands now.

Declaration of Andrew Duck

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

O. JOHN BENISEK, *et al.*,

Plaintiffs,

v.

LINDA H. LAMONE., *et al.*,

Defendants.

Case No. 13-cv-3233

DECLARATION OF ANDREW DUCK

I, Andrew Duck, under penalty of perjury, declare and state:

1. I am over the age of 18 and am competent to testify to the matters stated below.

2. I reside at 216 N. Delaware Avenue, Brunswick, Maryland 21716, which is located in the southwest corner of Frederick County within Maryland's sixth congressional district ("sixth district").

3. My family moved to Frederick County in 1976, around which time I was entering high school.

4. Prior to that time, my family owned property in Frederick County, which my family and I visited frequently.

5. I first registered to vote in 1980, at which time I continued to reside in the sixth district. In the 1980 primary and general elections, I voted for Beverly Byron, a Democrat, to represent the sixth district in the United States House of Representatives.

6. Shortly thereafter, I entered the Army at age 19, and I did not return to Frederick County on a permanent basis until I left the Army at age 41. For the

first four years of my Army service, I voted by absentee ballot in the sixth district, and I consistently voted to reelect Beverly Byron.

7. When I returned to Frederick County in or around 2004, the sixth district was drastically different and had drastically different representation in the House of Representatives than it had when I previously resided there.

8. I came to learn that after the 1990 census, Maryland had enacted a redistricting plan that changed the composition and structure of the sixth district, such that the district no longer included a significant portion of western Montgomery County. I further learned that after the 2000 census, the sixth district was redrawn to span from Western Maryland across the northern border of Maryland into Baltimore and Harford Counties. As a result of these changes to the composition of the sixth district, the sixth district had become heavily slanted to Republican voters.

9. From 1992 through 2012, the sixth district was consistently represented in Congress by a Republican, Roscoe Bartlett.

10. I was unsatisfied with Congressman Bartlett's representation in Congress. I disagreed with his support for tax cuts which most benefited the richest among us combined with a desire for extreme cuts in government spending that benefited working and middle class citizens. His blind support for Bush Administration policies in Iraq was damaging the Army to which I had dedicated much of my life. As a Soldier who had served in Bosnia, Congressman Bartlett's opposition to participation in United Nations peacekeeping activities was also contrary to my beliefs. In particular, he represented a vast departure from the moder-

ate members of Congress who had represented the sixth district prior to the 1990s.

11. For example, Beverly Byron, who represented the sixth district for many years, and her husband Goodloe Byron who represented the district before her, were considered moderate Democrats who effectively represented the sixth district in Congress. Congresswoman Beverly Byron had supported the military while also supporting the common sense programs that support working and middle class citizens.

12. The sixth district had a long history of such representation. Notably, Congressman David John Lewis, a Democrat, represented the sixth district from 1911 through 1917, and again from 1931 through 1939 during which time he introduced the Social Security bill in the House of Representatives in 1935.

13. Because I was unsatisfied with my congressional representative and the make-up of the sixth district, I engaged in various political activities centered on returning the sixth district to its prior politically-moderate climate.

14. Beginning in or around 2004, I became actively involved in registering new Democrats to vote in the sixth district, and I actively recruited Democrats to become involved in local Democratic politics. Between 2006 and 2010, efforts to register voters increased the number of registered Democrats in the sixth district from 146,227 to 159,715, an increase of 9%.

15. I also engaged in other efforts to bring attention to Democratic voters in Western Maryland. For example, in 2005, I helped create the Western Maryland Democratic Summit, an annual event aimed at promoting Democrats in Western Maryland. This event has helped draw attention from legislative leaders in

Annapolis to Democratic voters in Western Maryland. Democratic candidates for statewide office attend the Summit each year, including Democratic candidates for Governor, Comptroller, and Attorney General, and usually the Democratic candidates for United States Senator.

16. In addition, I ran to represent the sixth district in the House of Representatives in 2006, 2008, and 2010. I ran for Congress even though I knew the sixth district had an entrenched Republic congressman, because I believed it was important to show State leaders that Western Maryland had an active and strong Democratic electorate.

17. At the time I was running for Congress, the former sixth district spanned over 220 miles from east to west, making voter contact across that entire district quite difficult. Despite those difficulties, during my campaign in 2010, I traveled across the sixth district, from Garrett County to Harford County. My experiences campaigning for office in the sixth district exposed me to various differences among communities located in the former sixth district.

18. There are vast differences between the mountainous region of western Maryland and central Maryland. For example, the residents of Garrett County do not live in the Chesapeake Bay drainage area, while residents of Harford County live right next to the Chesapeake Bay. Communities in Harford, Baltimore, and the eastern part of Carroll County tend to center around the Baltimore region, while communities in Garrett, Allegany, and the western part of Carroll County do not. I also experienced that voters in Frederick and Washington Counties were more closely aligned with the Washington, D.C. suburbs, similar to Montgomery County.

19. These differences increased the difficulty of campaigning for office in the sixth district. The sixth district spanned three media markets, the Baltimore media market, the Washington, D.C. media market and the Pittsburg media market in the west, making advertising for a congressional campaign very expensive. Because many people in the eastern part of the sixth district worked and attended recreational events in Baltimore City, while many people in the western part of the sixth district never traveled to Baltimore, it was hard to find locations for campaign events that would attract significant numbers of voters from both parts of the sixth district. When advertising for events, advertisements placed in Baltimore would attract too many non-residents, while advertising in western Maryland would fail to capture significant numbers of voters who resided in Harford, Baltimore, and the eastern part of Carroll County.

20. On July 23, 2011, I attending a hearing conducted by the Governor's Redistricting Advisory Council ("GRAC") in Frederick County. During my testimony at that hearing, I relayed my experiences campaigning in the former sixth district and offered testimony about the differences in communities encompassed within the former sixth district. I testified that in order to make it more viable for candidates for office to reach all of the voters of the district and to better represent the population as a whole, the GRAC should reorient the district to include more of Montgomery County, less of Carroll County, and none of Harford and Baltimore Counties.

21. I consider my testimony at this hearing, along with similar testimony at other GRAC hearings, to have been an essential part of the political process related to redistricting.

22. I have supported John Delaney as he has run to represent the sixth district since 2012. I consider Congressman Delaney to be a Democrat in line with the historical representation of the sixth district prior to 1992. I have found Representative Delaney to be a significant improvement from the previous Congressman in representing the district's constituents. He regularly hosts constituent events in Frederick, Hagerstown, and Cumberland, Maryland.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

22 April 2017 /s/ Andrew Duck
Date

April 3, 2012 *Washington Post* article

Delaney defeats Garagiola in Democratic primary for House seat from Maryland

By Ben Pershing April 3, 2012

A wealthy newcomer defeated the Democratic establishment's pick for a redistricted House seat in the Washington suburbs Tuesday, the biggest victory in Maryland's primaries.

In the closely watched Democratic primary, financier John K. Delaney beat state Senate Majority Leader Robert J. Garagiola (Montgomery) by a wide margin in a race that had been expected to be close.

Delaney will now face Rep. Roscoe G. Bartlett (R), whose district was redrawn to be tossup territory in November. Bartlett fended off state Sen. David Brinkley (Frederick) and six other Republican challengers in a battle for the night's most contested seat.

Garagiola was the pick of much of the state Democratic Party establishment, which tailored the district lines to make them favorable to their candidate, while Delaney was a first-time candidate whose prodigious spending helped level the playing field. Delaney's win was a repudiation of the party leaders and traditional Democratic interest groups that threw their weight behind Garagiola.

David Wasserman, the House editor for the nonpartisan Cook Political Report, blamed Garagiola's loss in part on the fact that he chose not to go on the airwaves, while Delaney was a heavy presence on television and radio.

"Delaney's win is confirmation you need a modern ad campaign to win a primary in the D.C. suburbs, where the cost of name recognition is steep," Wasserman said. "It's also confirmation that drawing the lines is no guarantee of electing a certain candidate."

As former Massachusetts governor Mitt Romney won the state's Republican presidential primary and Sen. Benjamin L. Cardin (D) easily beat back an intra party challenge, all of the state's eight U.S. House members won their primaries, and all but Bartlett appeared on track to win in the general election.

At the Potomac Community Center, Terry Ao said she supported Garagiola because she felt he echoed her social values.

"I am a civil rights attorney working for a nonprofit in D.C., and I felt that he spoke the most to my issues and concerns," she said. Ao said she is particularly focused on the needs of the region's "vulnerable communities" and felt that Garagiola "would be a champion for them."

George Guess, 67, voted for Delaney. Guess said he was impressed by the strong grass-roots presence of Delaney's campaign, with volunteers who came through neighborhoods to knock on doors.

"He struck me as close on the issues to Garagiola, but Delaney was endorsed by [former president Bill] Clinton, and he had all those guys on the ground rather than just calling," Guess said. "I thought that was more sensitive to the people, less canned."

At Hillcrest Elementary School in Frederick, Henry Brown, 71, said he voted for Delaney because, "If it's good for Bill Clinton, it's good for me."

Turnout across the state appeared to be "relatively light," said Donna Duncan, a spokeswoman for the Maryland State Board of Elections.

"We'll be lucky if we reach 25 percent" of registered voters, she said, a level which would roughly match turnout in the state's 2004 primaries.

The story of Delaney and Garagiola's months-long fight followed an unusual arc.

When Annapolis Democrats redrew the state's congressional map, they decided to target Bartlett by adding the western portion of Democratic-leaning Montgomery County to the more conservative Maryland panhandle. And at the urging of state Senate President Thomas V. Mike Miller Jr. (Calvert), a close Garagiola ally, they drew the 6th Congressional District to include Garagiola's Germantown home but exclude those of several other prominent Montgomery Democrats.

U.S. House Minority Whip Steny H. Hoyer (D-Md.) threw his weight behind Garagiola, as did every major union and such liberal groups as MoveOn.org and the League of Conservation Voters. Maryland Gov. Martin O'Malley (D) also endorsed Garagiola in the closing days of the race.

But Delaney, the founder of the Chevy Chase commercial lender CapitalSource, was able to leverage some of his own political connections, winning the backing of Clinton as well as Comptroller Peter Franchot and Rep. Donna F. Edwards of Prince George's County.

Delaney raised roughly double what Garagiola did in the first quarter of the year from outside donors, and Delaney also put about $1.7 million of his own money into his campaign. He ran a host of television and radio ads, while Garagiola was silent on the airwaves.

The tenor of the race was often negative. Delaney branded Garagiola an Annapolis "insider" and criticized him for not reporting outside income from a lobbying job on state disclosure forms. Garagiola accused

Delaney's business of unsavory practices and pointed out his contribution to the congressional campaign of Rep. Andy Harris (R-Md.) in 2010.

Bartlett, meanwhile, was leading a field that included Brinkley and Del. Kathy Afzali (Frederick). Although the redrawn district includes territory he has never represented, and some state Republicans had privately expected him to retire, Bartlett appeared to benefit from the fact that the anti-incumbent primary vote was split several ways.

At Potomac United Methodist Church, Republican Roger Thies said he supported Bartlett because he felt he was the GOP's best bet at retaining control of the competitive seat.

"Clearly the Democrats have tried to gerrymander [the district], and I think Bartlett has the best chance to hold it, on name recognition alone," Thies said. He said it was the "sole reason" he cast his ballot for Bartlett.

In the Senate contest, Cardin easily deflected a primary challenge from state Sen. C. Anthony Muse (Prince George's) and seven other Democrats. With roughly a quarter of the precincts reporting, Cardin led Muse by more than 50 percentage points and had been declared the winner by The Associated Press.

"We are extremely pleased by our results in all parts of the state," Cardin said in a brief interview. "We're ready for the general."

Muse, who is black, made the case that Prince George's needed a better voice in Congress and pointed out that the Senate has no African Americans. But Cardin, who won an early endorsement from President Obama, was better known around the state and far better funded than Muse.

Walking out of the polling site at Bethesda-Chevy Chase High School, Don Allen said he voted for Cardin. Although he said he thinks there should be more African Americans in Congress, he thought Muse—who opposes same-sex marriage—"was too far to the right on social issues."

Cardin is also favored in November against the eventual Republican nominee, particularly with Obama atop the ballot. Former Secret Service agent Daniel Bongino led ex-Defense Department official Richard Douglas in a tight race to face Cardin.

On the House front, author Ken Timmerman was the Republican pick to take on Rep. Chris Van Hollen (D). Republican activist Faith Loudon prevailed in the contest to face Edwards, while Del. Anthony J. O'Donnell (Calvert) won the GOP nod to oppose Hoyer.

November 8, 2014 *Frederick News-Post* article

Why U.S. Rep. Delaney should thank Blaine Young

Frederick News-Post Editorial Board
Nov 8, 2014

U.S. Rep. John Delaney (D) has won a razor-thin victory over Dan Bongino in his re-election bid to the 6th Congressional District seat.

And for that he might want to send Blaine Young a thank-you card. We'll tell you why in a minute.

Delaney's victory wasn't assured until absentee ballots were counted Thursday. The congressional race — which turned into a nail-biter Tuesday night — wasn't supposed to be this close.

After all, the Martin O'Malley administration had shamefully gerrymandered the congressional district (which includes a large chunk of Frederick County) in order to push former Republican congressman Roscoe Bartlett out of office two years ago and solidify it as a safe Democratic seat for years to come.

But that strategy nearly backfired this week.

When district-wide voters showed up at the polls they voted heavier than expected for Republican candidate Bongino. He trailed by about 2,000 votes election night.

But now that we've had a few days to digest this race, it has become abundantly clear that the only reason Delaney isn't a one-term congressman is because of his support from Frederick County. Without Frederick County, Delaney would have gone down in Maryland history as one of only a handful of "one and done" congressmen.

In a historic election that doomed almost anyone with a "D" after their name, Delaney and a handful of other Democrats on the Frederick County ballot were able to survive in a county with a 6,500-voter registration edge for Republicans. When all the votes are finally tallied next week, Delaney will likely defeat Bongino by at least a 1,700-vote margin in the county.

That's significant because Delaney was hammered by 2-to-1 and 3-to-1 margins in the other three Western Maryland counties where voter registration favors the GOP. For example, in neighboring Washington County, Delaney lost to Bongino by more than 10,000 votes. Delaney also lost by nearly 5,400 votes in Allegany County and 4,400 votes in Garrett County.

Fortunately for Delaney, he was able to wipe out those losses by taking Montgomery County, a heavily Democratic county. But his 20,000-vote victory there would not have been enough to put him back in office had Frederick County voted along similar party lines as the other three Western Maryland counties.

Even Chris Van Hollen, the Democratic congressman who represents northern Frederick County, was pounded by local voters. Van Hollen, who was easily reelected to a seventh term, trailed a relatively unknown Republican candidate by more than 10,000 votes in Frederick County.

So why did Delaney fare better in Frederick County than expected?

We think it's because Frederick County's voter turnout (51 percent) was not only higher than the state average of 45 percent, but also higher than any of the other counties in the 6th District, including Montgomery County (39 percent).

And one of the main reasons it was higher was the county's intense interest in electing its first-ever coun-

ty executive in a race that pitted the Republican Young against Democrat Jan Gardner.

As we now know, Gardner trounced Young on Election Day, in large part because Democrats in Frederick city precincts turned out in large numbers to make sure Young didn't rise to the county's highest elected position. And an examination of those same precincts showed they also voted heavily for Delaney — in many cases in the 60 percent or higher range. In other words, Delaney benefited greatly from a surge in voters who supported Gardner — and we're safe in assuming they weren't conservative Republicans.

To give Delaney credit, it does help that he is seen as pragmatic and not political, and there's no question he has represented the county well during his first term in office. And for that, voters rewarded him with another two years as their congressman — with some help, of course, from Gardner supporters who turned out in large numbers.

Deposition of Plaintiff O. John Benisek

Q. Can you please state your full name.

A. O. John Benisek.

Q. I'm going to give this to you.

(Deposition Exhibit Number 14 was marked for identification.)

BY MS. KATZ:

Q. Just take a look and tell me if you [6] recognize this document.

A. I do.

Q. Was this the Deposition Notice that you were served with?

A. I do not recall getting it by mail. Okay?

Q. Sure.

A. But I have seen it.

Q. Okay. Great. Your lawyer showed it to you?

A. Yes.

Q. Have you ever been deposed before?

A. I don't think so, no.

Q. I'm just going to go through a few housekeeping rules. This court reporter is trying to take down everything we say. So we should be careful not to try to talk over one another.

I will wait for you to finish an answer before I ask a question. And I'll ask you to wait until I finish a question to give an answer. Also to give verbal answers for the benefit of the court reporter.

If you do not understand a question that I [7] ask you, please tell me. I'm happy to rephrase it or give you a different question. If you don't ask me to rephrase something, I'll assume that you understand the question. Okay?

A. Okay.

Q. Great. We're going—this shouldn't take very long. Try to make it through without a break. But if you need a break for any reason, please let me know and we'll find a good place to stop.

A. Okay.

Q. Are you taking any medication today that might affect your ability to recall events or to testify today?

A. No.

Q. Thank you. Where do you live?

A. Right. As the Notice of Deposition states, 11237 Kemps Mill Road, Williamsport, Maryland.

Q. How long have you lived there?

A. 1990.

Q. What is the highest level of schooling you attained? [8]

A. That would be an MBA.

Q. Where did you attend high school?

A. Aberdeen High School.

Q. Near the Proving Grounds?

A. Yes. Aberdeen High School is the only one.

Q. Where did you attend college?

A. University of Maryland, College Park. I missed the riots.

Q. Okay. It's a beautiful campus. Was it beautiful when you were there?

A. Oh, yes.

Q. Where did you attend graduate school?

A. George Washington University.

Q. Just to be clear, that's where you got your MBA?

A. Yes.

Q. What year was that?

A. Do I have to answer that?

Q. If you can't remember, that's fine. No problem.

A. Maybe '72 I think. [9]

Q. What kind of work do you do?

A. I do property management.

Q. Are you self-employed?

A. Yes.

Q. How long have you been self-employed by property management?

A. Over 20 years.

Q. Oh, wow. Okay. Great. Prior to that, what did you do?

A. I worked for different contractors, at times state inspector, State of Maryland, building project in Hagerstown. And at the same time, self-employed during that time too.

Q. Is it sort of all involving different areas of real estate?

A. Yes.

Q. Have you ever been employed in any other field?

A. Just about a year and a half in engineering.

Q. Oh, okay.

A. My major was in civil engineering, so I [10] gave it a try.

Q. Understood. Do you recall when you first registered to vote?

A. It was probably when I was 21 years old. Okay?

Q. Uh-huh. Do you recall what year that would have been?

A. I'm like a woman who doesn't want to divulge her age. 1965, '66 maybe.

Q. In the mid '60s. Where were you living at that time?

A. College Park. I was a student.

Q. Were you registered to vote in College Park or where your home was? Or were they one in the same?

A. I don't recall.

Q. Do you recall what congressional district you were in at that time?

A. Whatever College Park is in perhaps. If not that, it would have been Harford County.

Q. Harford?

A. Yes. [11]

Q. Is that where you grew up?

A. Yes, Aberdeen, Belcamp.

Q. Do you recall the first election you voted in?

A. I think so. It was probably Nixon.

Q. It would have been a presidential election?

A. Oh, yes.

Q. That would be the first time he ran? Do you recall what year it was when you first voted?

A. No.

Q. After you registered to vote—

A. We can figure it out if you want to. Like Kennedy took over—Johnson was back in '64, so it would have been the election of '68 probably, presidential election. McGovern was running at the time. He got plowed under. Enough. Go ahead.

Q. Do you recall if when you voted in that presidential election you also voted for your congressional representative?

A. I do not recall.

Q. Do you have any reason to believe that you [12] wouldn't have voted for every office?

A. No. Because the ballot has a lot of candidates on it. I probably voted for the rest of them too.

Q. Is that how you tend to vote, vote for all the choices on the ballot?

A. I try to stay informed of the candidates and vote for the different candidates. But don't take me back 40 years, 45 years.

Q. How about just—if we talk somewhat generally about your voting habits at the time. Do you recall being a regular voter during the 19—

A. I voted pretty consistently for the major office, yes.

Q. That would have been true from the time you registered up through the present day?

A. Yes.

Q. Do you recall when you first moved to a residence that would have been in the Sixth Congressional District?

A. It would have been in 19—well, I started working in the Hagerstown area, Sixth [13] Congressional in 1976. And I moved into that area in '78.

Q. Do you recall who your congressional representative was at that time?

A. Probably Goodloe Byron. Then he passed away. Then Beverly took over. Roscoe Bartlett might have been in at the time too. I do not recall.

Q. Do you recall ever voting for Goodloe Byron?

A. I don't recall. Just trying to think.

Q. Do you recall ever voting for Beverly Byron?

A. I don't think I voted for Beverly. I think I voted for the opponent.

Q. When you say opponent, do you mean the Republican candidate?

A. I kind of was—grew up in a Republican philosophy. I would question the reasoning of it. I found the candidates were solid for the most part and I voted in that direction. So predominantly Republican. [14]

Q. Do you recall ever voting for a candidate who was not a Republican?

A. I certainly did. Over recent times, especially in the local elections where I—when I study the candidates and I perhaps know them from their activity or their success, if it's LeRoy Myers down in Annapolis or some other. And they're candidates with a good solid philosophy, conservative, I would vote for the democratic candidate. Yes.

Q. Who is LeRoy Myers?

A. LeRoy Myers is a contractor/builder in the Clear Spring area who was also a delegate in the Maryland General Assembly.

Q. So you recall voting for him to be a state delegate?

A. I think he was in my election district. Okay?

Q. Okay. Sure.

A. It's amazing you see all these people on the ballot. All the sudden you go to your precinct to vote and they're not in there because they're [15] not in your precinct. They're in your district.

Q. Do you recall ever voting for any other democratic candidates?

A. No.

Q. So he would be the only one you think?

A. One or two local candidates if it was a school board or county commissioner or something like that. The party affiliation didn't matter. It was what they represented that mattered.

Q. We spoke a little bit about this, but can you go into more detail about when you say what they represented that mattered, what does that mean?

A. I find on a local level, you get to know a person if he is BS'ing you. If he wants to loot the local treasury for a lot of frivolous things, which I would call frivolous.

Case in point, we have a lot of public housing in Washington County. We have several prison systems too. And a lot of the prisoners and their families will tend to stay there. And they are on the public dole. [16]

I in my property management have to buy property, maintain it, rent it out and compete with tenants who get subsidized into public housing. I pay for that public housing. That's what I call just bad politics to me.

Why should I be competing with people, political people who want to spend our money on something that I don't agree with?

Q. Can you think of other examples of I think you used the word "frivolous"—

A. Yeah. Sure.

Q. —frivolous spending?

A. They were going to tear down the municipal stadium in Hagerstown a few years ago and spend close to $15 million, most of it would have been taxpayer's money, to put up a new one.

And luckily they decided to interest the public in what their project was going to be, so they ran tourists through the existing city and they had a big campaign to show you what they were going to build in its place.

And those of us who had any common sense [17] realized that was a waste of money. Sure enough, they didn't get their funding. The administration was voted out of office, partially because of that. And the state of its standing, it's still used by the Hagerstown sons, things we don't feel should be wasted—money wasted on.

Q. When you say the administration was voted out of office, who were you referring to specifically?

A. Well, Bob Bruchey and several members of the city council. Also some of the Washington County representatives were voted out.

Q. Local politicians?

A. Uh-huh. But you know, this also works on a state level. When we have money that is not allocated based on the—they have to use a parity to allocate money, and we do not get a parity of 100 percent, but rather a 70 or 60 percent of money, tax money that was put out comes back to Washington County.

Our voice, our elected power, doesn't have a chance to bring back the appropriations that [18] should be coming back to Washington County.

Q. What upsets you about that?

A. What's that?

Q. What upsets you about that circumstance?

A. If I'm paying taxes, the money we pay should be coming back to our area, and it isn't. It's going

perhaps to the urban areas, Rapid Transit in Baltimore, something like that, Montgomery County.

Q. Are you registered as a member of a political party?

A. I am.

Q. Which one?

A. Republican.

Q. Have you ever registered with a different party?

A. Yes, independent.

Q. When were you registered as an independent?

A. Probably just prior to the election of 1984. Do you remember that one by any chance?

Q. Sure. I was 10, but I definitely remember [19] it.

A. And the candidate was—

Q. In 1984, it would have been Reagan and Mondale.

A. Right.

Q. Yeah.

A. And I wanted to vote for—they were having a runoff between Reagan and Anderson I think. So I changed party affiliations then to independent.

Q. I see. So you became an independent then?

A. Uh-huh. And then back.

BY MS. KATZ:

Q. And then back?

MS. WEBB: Objection; mischaracterizes his testimony.

BY MS. KATZ:

Q. When did you become an independent?

A. Probably 1984.

Q. And when did you then return to being registered as a Republican?

A. Prior to 2011. [20]

Q. So you were an independent from about 1984 to 2011?

A. Yeah. Voting Republican.

Q. Sure. But you were registered as an independent?

A. Uh-huh, for a good while.

Q. I know we've talked about local politicians that you—or one local democratic politician that you voted for. Do you recall ever voting for a democratic candidate on the state level?

MS. WEBB: Objection; asked and answered.

A. I don't recall.

BY MS. KATZ:

Q. You don't recall? Or on the federal level?

MS. WEBB: Same objection.

A. I'll go with the objection.

BY MS. KATZ:

Q. No. You have to answer the question, unless she directs you not to answer.

A. On a state level? No, I don't recall. [21]

Q. On the federal level?

A. Well, that would probably be Goodloe Byron, right? He was a democrat.

Q. Right. So do you remember voting for Goodloe Byron?

A. I think so.

Q. Do you remember if you ever voted for Beverly Byron?

A. I think I said I didn't.

Q. Do you recall if you voted for Goodloe Byron more than once?

A. No. I think he passed away shortly thereafter. So I think I would have had only one election cycle.

Q. Did you vote for Roscoe Bartlett when he first ran for office?

A. I did, several times.

Q. Did you ever vote for someone other than Roscoe Bartlett when he was on the ballot?

A. I don't think so. There weren't any good alternative candidates.

Q. Did you vote for him because of the lack [22] of other good alternative candidates?

MS. WEBB: Objection; vague.

BY MS. KATZ:

Q. Well, let me rephrase. You just noted that you thought there were a lack of other good alternative candidates. Are there other reasons that you voted for Roscoe Bartlett?

A. I think he represented western Maryland very well.

Q. How is that?

A. In trying to get, I'll call them earmarks or capital spending to go towards western Maryland. And I could contact him through the correspondence or phone calls. Of course, you get somebody besides him on the phone. But they dealt with you decently. I found that acceptable.

Q. Do you recall when you contacted Roscoe Bartlett's office, were you calling to talk about a political issue?

MS. WEBB: Objection; vague.

A. I don't know exactly what a political issue would be. If you have—you want a [23] Congressman to look into somebody's Social Security check not coming through, you know, for him to look into it. Because they do a good job of pushing that bureau-

cracy sometimes. That's probably the kind of stuff I would call on behalf of perhaps tenants.

BY MS. KATZ:

Q. Do you recall with any specificity why you would have contacted his office?

A. That would be one reason.

Q. So you said you would call on behalf of a tenant regarding a Social Security check?

A. Yeah.

Q. Any other specific things you can recall?

A. I cannot recall any specific things besides that.

Q. Anything specific to yourself?

A. I generally didn't ask anything of myself.

Q. Do you remember who you voted for in 2014 to be your congressional representative?

A. I think—I'm not sure about this, if Dan Bongino was on the ballot at the time. I would [24] have voted for him. I'm pretty sure I didn't vote for John Delaney.

Q. Why are you pretty sure of that?

A. Because I don't think he was reflecting the values we have in western Maryland. He's more for Frederick and Montgomery County philosophy.

Q. What does that mean to you—

MS. WEBB: Objection; vague.

BY MS. KATZ:

Q. —that he's more for Frederick and Montgomery County values? What does that mean?

MS. WEBB: Same objection.

A. Well, originally he wasn't in our district. Okay. Do you recall the way the Sixth District was changed?

BY MS. KATZ:

Q. Uh-huh.

A. We have a population in Washington County of approximately 220,000 people. So that when this new redistricting occurred, 65,000 Republican—registered Republican voters were taken out of our district. And 30,000 democrats were brought in. [25] That's 95,000 voters that we lost representing our district.

Now, Delaney did not get the majority in Washington County. I think he got everything else, Montgomery County and the rest of the contiguous areas. Okay. So that he didn't reflect our values and conservatism.

Q. What does that mean that he didn't reflect our values?

A. Well, let's face it, when a candidate is representing maybe half a million people, voters, he is going to be inclined to do a good representation for the majority in that area. When you take out all those registered voters out of our area, he doesn't see much need to pay a lot of attention to a smaller group of voters that probably didn't vote for him.

Q. Have you ever—

A. My vote was watered down because of this. Let's just put it plainly.

Q. Have you ever contacted Congressman Delaney's office? [26]

A. I did. I tried to on—I know by an email. And I got a response of like the pat political thing. We're representing this and that. We're doing this and that. It was, well, quite frankly pretty much what you get from the Speaker Boehner or somebody like that, which I've always done in the past. You get just a little stereotype answer.

Q. Do you recall what the subject matter of your email that you sent to John Delaney's office?

A. I do not recall right now. I think I was asking about one of the issues about the spending for our area.

Q. Do you recall the specific issue about spending?

A. No.

Q. Do you recall what your concern was about spending, what prompted you to send the email?

MS. WEBB: Objection; asked and answered.

A. Huh-uh. A lot of things. It could be for roads. It could be for schools, disagreement with the common core, something like that, okay. Or if [27] they wanted to build another prison in our area, I would have probably gotten in touch with them objecting to that. Those things come to mind.

BY MS. KATZ:

Q. The qualities that you look for in a political candidate?

A. How many do you want?

Q. Start from the top.

A. Okay. Let's just start with the major one. If you're going to make some campaign promises, stick by them. Don't get corrupted once you get into office and do a self-serving just for perpetuating your stay in office.

I'd like to see the quality in a candidate that lives by the same rules we have to live by. Okay. If we have to pay for our insurance, let them have the same insurance that we have, same insurance plan.

If they get a high pay based on—maybe the pay should be according to their productivity, okay,

like in business, civilian business. I don't see that happening. [28]

A lot of perks that they get that we do not, and I'm not going to name them. I think you're aware of them, perks that are bestowed upon the political arena.

Q. What sorts of perks?

A. Huh?

Q. What sorts of perks?

A. Well, perhaps a certain amount of immunity, being able to use state or federal transportation. It could be even having bodyguards, then telling us we don't have a right to protect ourselves, First Amendment. Second Amendment rights, right to own a gun. Okay. They try to breach that from us. Yet they have bodyguards to protect them. That's a perk. Okay.

Q. Before we were talking about candidates, you mentioned the word "conservatism." What does that mean?

A. It's a belief. Anytime you have an "ism," it's a belief.

Q. What does that mean to you as a belief?

A. I'm glad you asked what it means to me. [29] Okay. I feel we are being overtaxed. I feel this tax money is being wasted. Like I mentioned, public housing building, which competes with my private business. Okay. I don't like that.

I feel that when a person makes certain kinds of statements when electioning, they ought to go and stick by them. Call it profiles and courage to be able to stand up beyond what the general modality of opinion is and stick with the convictions. Have some ethics.

Q. Are you thinking of anything specific when you're talking about sticking by campaign promises?

A. Sure. I just mentioned taxing, spending. Can you be more specific than that?

Q. I'm sorry, I meant specific to a particular candidate who may have made a campaign promise that you feel he or she then abandoned.

A. To a degree, a lot of them. Perhaps most of them have done that to get elected. I don't think that Republicans, nor Democrats are immune from this. So therefore, you have to pick very specifically certain ones. Perhaps Neil Parrott, [30] delegate from our area and the Maryland legislature, has these characteristics, these traits, okay, good ones.

Q. Thank you. Have you ever attended an event held by your congressional representative that you recall?

A. Yes.

Q. Can you tell me what those were?

A. Are you talking about the federal congressional?

Q. Yes.

A. Probably just get together like where they meet the candidate or a debate, okay. That would be a congressional event. We've had debates in the Washington County. The Congressmen have been there to debate, given questions, how they answered them. Of course, that helps us make up our minds.

Q. Do you recall when that was?

A. Well, there would have been one two years ago when Dan Bongino ran. At the time, Delaney didn't bother showing up. I think I've seen several others before that. Yeah. [31]

Q. Do you recall who you voted for in 2016 to be your congressional representative?

A. That would have been Dan Bongino. Am I right on that?

Q. I think you said you voted for him in 2014. Do you recall who you would have voted for in 2016?

A. Who ran? I'm so infused with the presidential election that I lose track of the congressional ones. I'm pretty sure he didn't win because Delaney is in our area. He got it.

Q. So you recall that you did not vote for John Delaney?

A. Yeah.

Q. Do you think you would have voted for the Republican candidate in that race?

A. Yes.

Q. Have you ever volunteered on a campaign for a political candidate?

A. Just local, Washington County Commissioners and the state delegate, like Neil Parrott. Hillary didn't ask me, neither did [32] Donald.

Q. Did you vote in the general election for President in 2016?

A. I did. And I would like to make America great again.

Q. Does that indicate that you voted for Donald Trump?

A. Isn't it obvious?

Q. I'm asking.

A. Yes.

Q. When was the first time you became interested in the topic of redistricting?

A. When I first got wind of it, that the state of Maryland wasn't going to do this, I volunteered for the petition for a referendum to that. And I think I managed to get about 100th of the total votes signing on that petition. And some friends of ours got equal amounts. Seriously think that this is a joke, this redistricting, after I saw the maps.

Q. So that was after the law was passed?

A. Actually the law was passed, but it had to [33] be voted on still.

Q. Right. So it was petitioned to referendum?

A. Yeah.

Q. So you became involved—I just want to be clear. You became involved or interested in the issue after the governors had signed the bill into law?

A. Yeah. Because you know it didn't get much attention. There was a committee elected, I think five, four Democrats, one Republican, Kane, who was a one-term Republican who was not in office at the time the governor appointed. Kane never checked with the representatives, the Republican party to get their point of view on this.

Q. How do you know that?

A. I stay informed a little bit perhaps.

Q. How were you informed of that?

A. Well, once you start associating with people who are wanting to challenge this gerrymandering and you are out garnering votes, signatures for the referendum, you start to meet [34] people. And you see the different flavor of western Maryland, what their values are.

Q. What people informed you about James Kane not talking with any Republicans?

A. Should I have not known that?

Q. I'm just trying to gauge the depth of your knowledge.

A. I don't know. But you start to wonder—I don't believe if they had a—for some things like for the common core, they had public hearings around the state of Maryland. If Columbia Gas wanted to raise the rates, they had to have public hearings, which came into our area.

I don't recall any public hearings on the redistricting in our area. Do you recall? Were there any in our area?

Q. So are you telling me that you didn't know about any public hearings?

A. I don't think there was a good public representation and disclosure about this prior to the governor's enacting this.

Q. So I take it then you did not testify [35] before the Governor's Redistricting Advisory Committee?

A. No.

Q. Did you post any public comments after the plan was revealed to the public?

A. I was willing to go ahead and take the petition to garner signatures. It's a pretty public comment.

Q. Do you think that you were harmed by the 2011 congressional redistricting plan?

A. Yes.

Q. How so?

A. Do you recall my mentioning 95,000 voters that had switched? So if I was one of the voters, Republican voters, and all of a sudden there are four democratic votes, that's a dilution. I don't have as much political sway in my opinion.

What is worse than that, once you get a party entrenched in government after this redistricting, what incentive have those politicians to make a correction to this redistricting? They don't have any incentive. [36] They're in office. They're getting the benefits of office, be it financial. You know, they can become lobbyists afterwards and continue in their life afterwards, and honor and everything else that is bestowed upon a politician so to speak. Yeah. I agree with your expression.

So there is no reason—it's not self-correcting once it's implemented. What's worse, it's going to be almost impossible to make a correction to it by the voters, because their vote still is not there to count. It's been diluted.

So you have an issue that is bad. It's not going to be corrected by the politicians. It's going to be terribly hard for the people to make correction.

I'm harmed by that. It's awfully hard to make a change, a correction. Do you follow that?

Q. Sure.

A. Okay.

Q. If Governor Hogan is reelected and is involved in this process, do you think that there will be greater likelihood that you'd be pleased [37] with the next round of redistricting?

MS. WEBB: Objection; vague.

A. I'm kind of confused by that question. That's kind of a speculative way of answering. Can you make it more direct?

BY MS. KATZ:

Q. Well, as you were talking about political parties being entrenched as a result of redistricting, and now Maryland has a Republican governor, so I'm

trying to gauge whether you would be more likely to vote for Governor Hogan so that he will be involved in the redistricting, the next round of redistricting?

MS. WEBB: Objection; calls for speculation, vague.

THE WITNESS: Do you need me to answer?

MS. WEBB: Yeah, you should answer.

A. Listen. If it's a Democrat or Republican and they start to gerrymander and take away the value of a citizen's vote, then I'm against it. I don't care what party they are. They're scoundrels. [38]

But right now, Hogan stands for something that Candidate Brown did not. Plus he had an albatross around his neck O'Malley. If he was going to follow O'Malley's track record in what he had started, no wonder he lost. We had enough of tax and spend.

I believe—I was against starting the casinos in Maryland. I thought it brought a lot of heartache and grief for people to just gamble away thinking that they'll make it, spend their money that's supposed to go for medicine, food, rent, housing. And that money was supposed to go to schools.

Where did the money go? O'Malley put it a general fund to spend to try to balance the budget. He didn't spend it for schools. So if that's the ilk of a politician, he should be out of office, and he was; not eligible to run again probably. But his protege Brown was. We saw through that.

BY MS. KATZ:

Q. How did you become involved in this [39] lawsuit?

MS. WEBB: I just caution you not to reveal any communications you may have had with your attorneys. Other than that, you can answer.

A. I had a chance—I think Neil Parrott passed around a paper saying that there is—well, after the initial petition for referendum, I was incensed and feeling it sure would be a nice way to get involved. What can I do to stop it. And then Neil Parrott passed around a paper saying, Are there any people who would like to represent Washington County in this. I said, Yeah. I'll stick my neck out.

BY MS. KATZ:

Q. And that was when you originally filed the lawsuit in November 2013?

A. I think it was. I think it was.

Q. Just to be clear, that was in response to Neil Parrott soliciting your involvement?

A. No. He passed around a flyer to different groups saying, Anybody interested. He didn't come out, speak to me directly or anything like that. [40]

Q. I see.

A. No. I just picked up on the information there and I called him back, said, Yeah. I'll sign in on this. When you start to get incensed and there is a deep burning anger in you with what's going on in the federal and state legislatures, some people just give up and accept it. My vote doesn't count. Well, I don't feel that way. I feel we can do something.

Q. Do you recall the pleadings that were first filed in this lawsuit in November 2013?

A. I got copies of them sent to me because I was on this. Yes.

Q. So you weren't involved in drafting the initial Complaint in this case?

A. No.

MS. WEBB: Objection. I'm not sure where you're going with this.

MS. KATZ: Is that a—not a valid objection.

MS. WEBB: I don't want to get into any attorney-client—[41]

MS. KATZ: They were pro se.

BY MS. KATZ:

Q. Were you represented by an attorney when you first filed this lawsuit?

A. Personally?

Q. Any of the plaintiffs have a lawyer when you first filed this lawsuit?

A. I do not know.

MS. WEBB: I'm unclear on the time frame.

MS. KATZ: November 2013.

BY MS. KATZ:

Q. Pro se lawsuit that was filed, do you recall that?

A. I remember the date because I was getting the papers. I would read it and sign because I was a plaintiff.

Q. Do you recall who was responsible for drafting those pleadings in November of 2013?

MS. WEBB: Objection. I think this is calling for speculation and getting into legal terms that he may not be familiar with.

MS. KATZ: He was a pro se plaintiff in—[42] three pro se plaintiffs in a Complaint filed in Federal District Court of Maryland.

BY MS. KATZ:

Q. I'm just asking about whether you were involved in drafting those pleadings. But I think you said no.

A. No.

Q. Do you recall the substance of those pleadings? What was being alleged in that first Complaint that was filed in November 2013?

A. Basically they're taking away our rights by diluting our votes, by having a thin thread of line—making certain areas contiguous that were not.

Q. Sure. Were you provided any spreadsheets [9] by the attorneys?

A. Spreadsheets? No.

What I did request was access to a person who was doing technical GIS work for one of the other experts in this case. And I said if this person can process or organize the data that I want to have in the form that I want it for me, which would require GIS skills and technology, basically, he could be fulfilling my needs for data at the same time he was fulfilling the needs for another expert in the case.

Q. And who was that expert? Who was that person?

A. That was the political scientist, Michael McDonald.

Q. Sorry. Who was the GIS expert?

A. Oh, the GIS expert, I'm blocking on his name. His name was—his last name was Amos. First name, I'm trying to remember.

Q. Did he end up providing you with material?

A. He did. He is a Ph.D. student who works with Professor McDonald and had—based on my [10] discussions with him, I could tell that he had extensive experience extracting the data that I normally use and organizing it in the form that I normally want it.

In this case I wanted it organized in a particular form that I would have normally gone to my GIS guy, because it required GIS skills that I understand but don't actually possess. So I gave him detailed instructions on how to do it.

MS. RICE: Okay.

A. And that was the person I guess that was arranged through the attorneys. So you could consider that to be something that they arranged for me to have.

* * *

Q. Okay. Let's turn to page 67, Table 3.

A. All right. So we don't need to go back over the testimony that you already gave about what Mr. Amos provided you with. But I was wondering: Is there anything else about—to say about how you came up with the data in Table 3?

MR. MEDLOCK: Objection. Vague.

A. I have nothing further to add other than to say I took the data and I tabulated it in the way that I wanted to tabulate it. And I identified the total number of census places, and I distinguish between the incorporated and the unincorporated so that I could get some sense of what kinds of places were being split.

There is a very stark pattern throughout. There is no doubt in my mind that established [137] communities of interest were split to a remarkable degree far more than they were before redistricting occurred and far more than could possibly have been necessary in order to simply equalize the population.

Q. Were you aware that the Census prepares tables of census-designated places by congressional district?

A. Yes, I'm aware of that.

Q. And did you examine those tables?

A. I did not examine those tables on the retail side because I knew that I needed them both with respect to the congressional districts that exist-

ed—would have existed in the present—that is to say, when I would have looked at the retail side of the Census Bureau's data provision.

But I also needed to know where they were before the census—before they were in the current district. In other words, the Census Bureau will tell me, for this particular census place: What is its current congressional district? And the answer is: It's the 113th Congressional [138] District.

And I say: But I want to know what was it before that. The answer would be: Well, that is a historical fact that we don't publish on our website. That is something you have to assemble yourself with a GIS system and go through the tedious task of showing where it was with respect to prior boundaries.

So I wouldn't normally think of going to the Census Bureau for both parts of the table. I could only get half of what the table was. And even then, it would not be an effective use of my time because I was not a GIS person. I would have to do it place by place. It would be a very tedious task.

* * *

[140] * * *

Q. What year was the 111th Congress elected?

A. I don't really recall.

MS. RICE: Okay.

A. It was before the 113th. I know that.

Q. And what year was the 113th Congress elected?

A. Again, it's not something that comes to mind immediately.

Q. Okay. Why did you choose those two congresses?

A. Because that was, it's my understanding, the pre-redistricting and post-redistricting.

Q. There were several congresses pre-redistricting. Is that correct?

A. Right. Right. Right. The—this—I'm trying to remember why we picked that. That may be it was closer to the 2010 census. There was a reason for doing that. I don't recall exactly why.

* * *

[148] * * *

Q. Certainly. That might lead to a question that I had in understanding the table. Are the cities, towns and census-designated places the ones that were identified in connection with the 2000 census or the 2010 census?

A. My understanding is that they were identified with reference to the 2010 census. But, again, I would have to check and see how—what the—you know, what the documentation shows that Mr. Amos has provided me with.

* * *

[151] * * *

Q. But you can't provide me now with the definition that you used to prepare that table?

A. Not without going back and reviewing Brian Amos' technical documentation, which I would want to do first.

* * *

Q. —of Exhibit 202?

Do you know which cities were included within the 111th Congressional District 6?

A. Not offhand. I would have to check back with the spreadsheet that I used to assemble the data

that I used that went into Table 3. I don't [153] have that with me.

Q. Is that also true for the 113th Congressional District 6?

A. Yes, it is.

Q. And is that the same answer for towns?

A. Correct.

Deposition of Michael P. McDonald, Ph.D.

Q. What do you understand vote dilution as used in this question to mean?

A. I used a paradigm that is common in the racial gerrymandering litigation world where that's something I've been involved with in prior cases, and so, to my knowledge, no one has looked at vote dilution in a partisan context. So it seemed natural to me that the vote dilution context for racial gerrymandering, which is a group of people that we are talking about, races or ethnicities, could be applied to another context of groups we are talking about, Democrats and Republicans.

The vote dilution, usually what we are [16] talking about is taking the votes of a group, identifying a group of people and drawing the district in such a way that denies that group the ability to elect a candidate of their choice. So that's the legal meaning, not the legal, that's how I understand it in terms of my expert work in racial redistricting cases, how, what the meaning of vote dilution is.

* * *

Q. I'm sorry. I'm sorry. I'm sorry. I skipped. That was my reading.

Let's start over.

"This vote dilution had a concrete impact on the electoral outcomes because Republican voters in the adopted district have, as a consequence, been unable to elect a candidate of their choice."

Is that vote dilution?

MR. STEIN: Objection. Vague.

A. That's moving from the vote dilution to the facts. So one way to measure whether or not [19] the vote dilution has had an effect, which is the question that was posed up in the first part of it, is to look at whether or not the affected group has been able to elect a candidate of their choice. And in the three congressional elections that have occurred since the adoption of the redistricting plan, the Republican voters in the Sixth Congressional District have been unable to elect a candidate of their choice. And one of those elections, in particular, 2014, was an exceptional year for the Republicans. There was a national wave in their direction. If there was going to be an opportunity for the Republicans to be able to win or be able to elect a candidate of their choice in that particular election year, that would have been it, and they were unable to do so.

So in the best electoral circumstances, even in the best electoral circumstances, Republicans have been unable to elect a candidate of their choice in the Sixth Congressional District.

* * *

[24] * * *

Q. Sure.

I think that, and I don't mean to mischaracterize your testimony, so please correct me if I misunderstood, I think that you mentioned, when speaking about vote dilution analysis in the racial gerrymandering context, that a district may or may not have been drawn to protect the voting rights of minorities.

Would that same analysis of why the district was performative for Republicans be something that you would examine?

* * *

A. * * * So the vote dilution analysis is really about sort of the relative polarization that is happening and the level of support that the Democrats and the Republicans have in this context for their candidates.

The effect part of it is talking about, so once we know that vote dilution is occurring or there's racial polarization that's occurring, a district has been drawn in such a way that because there's not sufficient crossover voting to elect a candidate of choice, what adverse effect it is having on the group that's in question. In this case, the Republicans.

And we have two different districts. We have a change where we actually dramatically changed the composition, the parts and composition of a district. [27]

And so looking at the—we actually do have a counter factual in a way because it's a district that should have been very similar or could have been very similar to the one that could have been enacted. So that provides some evidence about what was possible in the prior plan versus what was actually adopted.

And as additional information, I'm sure we'll get to it in the course of our discussion today, there's also an alternative plan I put forward on how you might go about drawing the Sixth Congressional District and the Eighth Congressional District in a different manner that would not result in vote dilution.

* * *

Q. And did you do any probabilistic analysis of effect in this report?

MR. STEIN: Objection. Vague.

A. I did a deterministic analysis because we were able to look at the three elections, and the endogenous elections, and the seven exogenous elections, and it came to an overall, formed an overall opinion about the concrete adverse effect that the changes had brought upon Republicans [35] within the Sixth Congressional District. It's not a statistical analysis in the fact there's some sort of regression analysis or something of that nature. It's one that's based on the actual election results. So in that way it's a deterministic, not a probabilistic analysis.

* * *

Q. Did you undertake any analysis of whether Republicans are historically unable to form blocs with crossover voting from non-affiliated voters in Maryland?

A. Within Maryland, no. Within the Sixth Congressional District, also, I did not do that. However, one could infer, if one wished to do that sort of analysis, you could look at Table 2 or simply look at the election results.

When I draw my opinions about whether or not Republicans are able to elect a candidate of their choice, I'm essentially doing that sort of analysis, although it's not framed exactly in crossover votes from Independents, separately from Independents or from Democrats.

In order to be able to elect a candidate of their choice in the 2012, '14, or '16 election, we would have been able to observe, if there were sufficient crossover votes, that a Republican candidate would have been elected. And so I can infer from the fact that a Republican was not elected

in any of those three [49] Congressional elections that there were insufficient crossover votes from any source, be it from Independents, or from Democrats, to the elected Republican candidate of choice.

* * *

[50] * * *

Q. Did you undertake any analysis of non-affiliated voting behavior in Maryland?

MR. STEIN: Objection. Vague.

A. Well, there are some numbers sitting here in Table 2. So there is some, there is an analysis there.

As I said previously, I'm drawing inferences about crossover votes would have been from any source, either Independents or Democrats.

* * *

[52] * * *

Q. Okay. And did you look into any of the electoral circumstances of any of the individual races?

A. No, I did not, other than the underlying partisanship measure we have in the district.

Q. Did you examine incumbency effects in your analysis?

A. I did not.

* * *

Q. Do you know whether the populations of the districts are the ideal population?

MR. STEIN: Objection. Vague as to districts.

Q. The alternative districts.

A. Yes. I did not say this earlier, so I need to correct now, Mr. Amos created this map at my di-

rection. And it's the concept and an idea that I had and I directed him what to do.

He did produce reports of the district. He did, as I recall, zero out, what we call [54] zeroing out the population. It would have been within one point of the ideal, one person of the ideal, not point.

If it's not, you can create a similar, substantially similar map by adjusting that line. That is, if we look at figure 8 on page 25, in my vast experience of drawing maps, it would not be difficult to make trades between these two districts to balance that out. And I would also say that this is one map, among many, that could be created that has this concept embedded in it.

Q. What did you—we talked about one thing that you directed Mr. Amos to do. What were the other things that you directed Mr. Amos to do in constructing this alternative plan?

A. I just had him merge together the Sixth and the Eighth Congressional districts or basically wipe them out so that we just had a cookie cutter then of just the western portion of the state that was formally the Sixth and the Eighth Congressional District, and then I directed him to draw a line through Montgomery [55] County that would, as straight of a line that was possible, knowing that census geography doesn't really necessarily have straight borders all the way. You have to have a nice road or something like that to make a perfectly straight line often. So knowing that that didn't exist, I asked him to do it as good as he could while equalizing the population between the two districts.

Q. And what software did Mr. Amos use?

A. He used Maptitude.

Q. What data did Mr. Amos consider?

MR STEIN: Objection. Vague.

A. He only considered the census data. * * *

* * *

Q. Sure.

For Democratic residents of the portion of Montgomery County that under the 2002 plan was in the Eighth District, who are now moved into the Sixth District, are their votes diluted under this alternative plan?

MR. STEIN: Same objection.

A. Yes. So you are asking me to draw a legal conclusion, why counsel is pointing out—

Q. I don't mean to be asking you to draw a legal conclusion. I just mean under your understanding and how you use both dilution in these analyses.

A. The Democratic voters that were formerly within the Eighth District would have their [63] ability to elect a candidate of their choice diminished, yes. You would be correct.

Deposition of Plaintiff Jeremiah DeWolf

Q. Could you please state your name for the record?

A. Yes, ma'am. Jeremiah DeWolf. [6]

Q. And today I think we're probably going to try to make it through without a break because I don't think it will take very long.

But if you need a break for any reason, just let me know and we can stop and take one. The only thing that I ask is that you answer whatever question I've just asked before we take a break.

A. Okay.

Q. But let me know if you need one.

Please let me know if you don't understand a question that I ask you. If you don't say something to me, I'm going to assume you knew what I said and you understand.

Please also try to give verbal answers. And we'll both try not to talk over one another to make sure that the court reporter can hear us.

And have you taken any medication today?

A. No.

Q. And what's your current occupation, Mr. DeWolf?

A. I'm a field service representative for Gettinge USA. [7]

Q. I'm sorry, I didn't hear the name of the company?

A. Gettinge USA.

Q. And what do you do as a field service representative?

A. It's electrical mechanical work with biosurety aspects.

Q. And can you tell many biosurety is?

A. It's for biological containment, infection—infectious disease control. So equipment, stuff like that.

Q. Okay. So do work for a—or do you do works for a lab, I guess? Is that—

A. The company that I work for is contracted by the different, you know, entities and we do work on behalf of the customer at the customer's facility.

So I work at Fort Detrick. So we do what the customer needs for biocontainment and biosurety.

Q. Okay. Great. And what was the highest level of education that you've achieved? [8]

A. Well, I finished high school, grade K through 12. And—but I've had a lot training in the Navy. So—

Q. Great. Excellent. And when did you serve in the Navy?

A. July 1999 through July of 2007.

Q. And what was your the highest rank that you attained?

A. E-6.

Q. When did you first register to vote?

A. In—

Q. Just period.

A. I registered to vote in—that would be in 1999, when I graduated high school. I registered from my high school at the age of 18.

Q. And where did you live then?

A. I lived in Lyons, New York.

Q. And when did you first register to vote in Maryland?

A. In 2007, shortly after I moved here.

Q. When you moved to Maryland, where did you moved? [9]

A. I moved to my current location at Mount Briar. 4709 Mount Briar Road in Keedysville, Maryland.

Q. And I am going to admit my kind of ignorance of western Maryland. Can you tell me where Keedysville is?

A. Sure. That's in south Washington County.

Q. And what Congressional district is that?

A. The 6th.

Q. And in 2007, who was your Congressional representative?

A. It was Roscoe Bartlett.

Q. And you said it was Roscoe Bartlett. Did your Congressional representative change?

A. In 2007?

Q. No. Just at all in time.

A. I'm sorry. Yes.

Q. And when did that change?

A. That changed after the 2012 elections.

Q. And who is your Congressional representative now? [10]

A. John Delaney.

Q. When you first registered to vote, how often did you vote?

A. Every election. Every possible election.

Q. General elections?

A. And primary.

Q. And primary.

And did you ever have the opportunity to vote in special elections?

A. I voted in every election possible, every election available.

Q. Okay. And has that—I asked you—originally, my question was about when you first registered to vote.

A. Uh-huh.

Q. Has that habit stayed the same to the present day?

A. Yes, ma'am.

MR. MEDLOCK: Objection, vague. Sorry. Go ahead.

Q. So from 2007 to 2016, have you ever missed an opportunity to vote? [11]

A. No, ma'am.

Q. Are you registered as a member of a political party?

A. Yes, ma'am.

Q. Which one?

A. The Republican Party.

Q. And when did you first register with the Republican Party?

A. In June of 1999.

Q. Was that when you first registered?

A. When I first registered to vote, yes.

Q. And have you ever registered with another party?

A. No.

Q. Have you ever undertaken any activity on behalf of another party?

MR. MEDLOCK: Objection, vague.

Q. Have you ever affiliated with another party in any other way?

A. No, ma'am.

Q. Have you ever voted for a Democrat?

A. Yes. [12]

Q. When?

A. Oddly enough, an absentee ballot when I was in the military, I voted for a county coroner. He was listed as a Democrat. He was the only one voting—running in that category and I voted for him. For some reason I checked the box, so he was my first Democrat I voted for.

And the second I just voted for was in the last election, for Judge Viki Pauler of Washington County. And she is a registered Democrat, although it was an unaffiliated election.

Q. Okay. And the county coroner that you spoke about, what jurisdiction were they running for county coroner in?

A. They were in Wayne County, New York.

Q. And did you vote for Roscoe Bartlett in the 2010 primary?

A. Yes.

Q. Do you consider yourself to be politically active?

MR. MEDLOCK: Objection. Vague.

A. Yes. [13]

MR. MEDLOCK: Go ahead. You can answer.

A. Yes, ma'am.

Q. And why?

A. Well, politically active now. I never used to be. But politically active because I feel that it's my best chance to effect change and make a difference and help choose the representatives in office that I would like to see win those offices.

Q. So you said that you never used to be a politically active.

When did you first become politically active?

MR. MEDLOCK: Objection, vague.

Q. You can answer.

A. It was after the re-districting is when I first really started. Around—so I never helped with any candidates for office, I never tried to volunteer for anyone, I didn't know how to do that. I was never inclined to do that. I didn't have that in my nature to do so.

And in—after the—or right before—or that—I'm sorry—in that year, 2012, when [14] it—the referendum came up with for the Congressional district, I actually signed—I heard about the petition, I signed the petition to not effect the change of the Congressional district.

And then after the election in which the Congressional district changed, I started to become politically active by—meaning I went out and I—I went and I contacted my State delegate and then I met Don Bongino running for 6th Congressional District and I joined his campaign to try to effect change.

And so from then on, I became politically active, as I would call it.

Q. You said that you contacted your State delegate.

Who was your—which State delegate?

A. Delegate Neil Parrott, Washington County.

Q. And I know you said what timeframe. But do you specifically remember what month you contacted him in?

A. I—actually, I don't know, ma'am. [15] Sorry.

Q. But did I understand you correctly to say that it was after the election of 2012?

A. No. It was before then. He was working on the Maryland Petitions organization and I actually

contacted him and I wanted to sign the petition for the gerrymandering, or the changing of the district.

So I signed his petition. That was when I first reached—as far as I know, reached out to him.

Q. You said the organization, Maryland Petitions. Do you mean—is that the name of the organization or is it just an organization about petitions?

A. I believe it's Maryland Petitions.

Q. Okay. And other than contacting Delegate Parrott at that time in connection with the petition drive, did you do anything else to help in the petition effort?

A. No, ma'am.

Q. And I think you also said—let me know [16] if I don't get this right—that you then met Candidate Dan Bongino and joined his campaign; is that right?

A. Yes.

Q. And how did you join his campaign?

A. Well, I met Dan Bongino at a fundraiser for Delegate Parrott and I talked with Dan and his campaign manager, Sharon Strine, and they said they were looking for volunteers.

And I said, and I quote—I'll never forget this—I don't know what I could do, but if I could help in some small way, I would be happy to help, end quote.

And I joined their campaign. The—Sharon talked with me a couple of times and asked if I would be their Washington County coordinator. I didn't really have an idea what that was, but I told them I'd help any way they needed me to.

And I accepted the position and I became their Washington County coordinator for the—their Congressional campaign.

Q. Do you remember when the fundraiser for [17] Delegate Parrott was?

A. It was his pie and ice cream social at then Antietam Battlefield. And the exact date escapes me. But it was sometime September—I believe it was August or September of that year - I'm sorry—2013.

Q. That reminds me. When you said that you joined Dan Bongino's campaign, do you mean his 2014 campaign for Congressional District 6?

A. Yes, ma'am.

Q. Okay. He also ran for Senate, so I just wanted to make it clear.

What were the duties of the Washington County coordinator?

A. My job was to help coordinate or help recruit volunteers, coordinate activities with the volunteers. So organizing sign waving, knocking on doors, introducing ourselves to voters, different events that we'd have throughout the county, parades, things of that nature.

So—and interacting with other officeholders in Washington County, attending [18] meetings or things of that nature.

Q. What kind of meetings?

A. Well, let's say, for example, the Hagerstown Tea Party, you know, had a meeting. I would go to their meeting on behalf of the campaign and help try to recruit, you know, volunteers for his campaign there. Or the Washington County Republican Club or, you know, different events.

If other Republican or conservative candidates in Washington County was having activities, I would go to those activities on behalf of his campaign as a way to get his name recognition out there and introduce myself and meet other candidates—volunteers. Sorry.

Q. And do you know how many volunteers there were in Washington County?

MR. MEDLOCK: Objection, vague.

Q. For the Dan Bongino campaign, how many volunteers?

A. Not off the top off my head. No, ma'am. We had quite a few.

Q. So could you estimate it for me? [19]

MR. MEDLOCK: Objection. Calls for speculation.

Q. You can answer.

A. I don't know the number, ma'am. Well over a dozen or so.

Q. More than or less than 100?

A. Less than 100.

Q. More than or less than 50?

MR. MEDLOCK: Calls for speculation.

Q. You can answer.

A. I would speculate less than 50.

Q. When you were knocking on doors for Dan Bongino, what was the typical reaction of a voter?

MR. MEDLOCK: Objection, vague.

Q. You can answer.

A. So I would go all over Washington County in different communities. Every community in Washington County, all over Hagerstown city and you name it.

And the reaction was varied. We would target Republican voters, particularly trying to get contacts so that they knew to vote for Dan, [20] trying to get the Republicans out.

And most of the time, it was optimistic, upbeat. People were very happy that we were there reaching out to them. in many cases, people had never had a Congressional candidate or their campaign knock on their doors.

A lot of people were—felt—I felt—I really like knocking on doors because I got to connect with a lot of people who felt just like me. A lot of people were demoralized and really downtrodden about the results of the previous election and the campaign—the Congressional district change.

So folks in, even in Washington County felt that they were, they felt discouraged because—I mean, speaking for myself and relating it to them, we seemed to agree that we just couldn't believe that the district could change in such a—in that manner.

I mean, it's been the, you know, same for decades and decades and then all of a sudden, it changed. And a lot of people were angry when I [21] talked to them on their doorsteps or when I knocked on their doors or called them on the phone.

That was a common, you know, answer they had. They were angry about it and lot of them wanted to do something about it.

Q. What did they want to do about it?

MR. MEDLOCK: Objection, calls for speculation.

A. Some of the people that I talked to, they wanted to—they want to figure out a way to get the Congressional district back, to change it back. But they

were helpless, they didn't know what they could do.

And, you know, I tried to encourage people to vote. A lot of people said that their vote didn't matter, it didn't count. They were—you know, they voted Republican their whole lives, but now it didn't matter because of the change.

So a lot of people didn't know what to do. But they wanted to do something but they didn't really know what they could do. The only thing we encouraged them to do was to get out and vote. [22]

Q. Have you ever attended an event in Maryland—just talking about your time living in Maryland—that was held by your Congressional representative?

A. No.

Q. Is Dan Bongino's campaign the only political campaign for which you've served and volunteered?

A. No, ma'am.

Q. What other campaigns have you volunteered for?

A. Well, more along the same lines, I was Terry Baker's campaign manager in the primary. In the last election, he ran for 6th Congressional District primary. I was his campaign manager.

And then previously, also while assisting Dan Bongino's campaign, in the 2014 election cycle, I helped Neil Parrott's campaign as a volunteer. I put up signs, I would knock on doors for him.

And I did the same for Delegate Brent Wilson in the City of Hagerstown. I do sign waving for them. A lot of times, we'd do dual sign [23] waving. You know, we'd have signs for Bongino and for, you know, Brent Wilson when we were in his district,

or Dan Bongino and Delegate Neil Parrott when we were in his district.

Additionally, I would help some of the county commissioners put up signs or sign wave or just volunteering in small ways like that.

Q. Which county commissioners?

A. Terry Baker, Jeff Klein, that was it. Just them two.

Q. So I heard you mention Terry Baker, a Congressional candidate and a county commissioner candidate, Neil Parrott, Delegate Wilson, and Jeff Klein.

Were there any other campaigns?

A. Yes. I also helped David Craig's campaign for governor. My wife and I put up—we went some of his events and we also put up a lot of yard signs for him around Washington County. And we sign waved for him.

And the lastly, not as a volunteer for the campaign, but I did provide some assistance to Amie [24] Hoeber in her campaign in the last election cycle. But I was a member—I'm currently I'm member of the Washington County Republican Central Committee and a member of the Washington County Republican Club.

So I was helping her campaign really as -through my duties as those two organizations, not really working on under the campaign, per se.

Q. Okay. So just going back to Terry Baker and the 6th Congressional District primary, you said you served as the campaign manager; is that right?

A. Yes, ma'am.

Q. What were your duties as campaign manager?

A. As campaign manager, I helped find volunteers, organize fundraisers and help him with policy and public affairs, media presentations, and answer questionnaires, and direct all aspects of the campaign.

Q. Do you know how many volunteers served on the campaign?

MR. MEDLOCK: Calls for speculation. [25]

A. I don't have an exact number, no.

Q. Can you give me an estimate, please?

MR. MEDLOCK: Same objection.

A. I would say we probably had about 50.

Q. And you said you served with him through the primary?

A. Yes, ma'am.

Q. And—but Amie Hoeber was the eventual candidate?

A. Yes, ma'am.

Q. Do you know what share of the vote Terry Baker received?

MR. MEDLOCK: Objection. Vague as to the election.

Q. In the Congressional District 6 primary?

A. I'm ashamed to admit I do not recall that number at this moment. I know he came in second. So it was a six-person race. Amie Hoeber won and Terry Baker came in second place.

Q. When you spoke to voters about Terry Baker, what was the reaction?

A. A lot of the people that I talked to were [26] encouraged that he was running for office. A lot of people felt that Terry Baker was the most conservative candidate there and a lot of people were looking for a conservative candidate.

He was a people person. He's—we—our campaign slogan, he was a compassionate conservative. And you know, very fiscally, very socially conservative and a lot of people liked that.

They liked his message on lower government and, you know, accountability without compromising public services.

But at the same time, people were still disgruntled, I should say, about the state of the Congressional district. They were very discouraged. They hoped that he could effect some sort of change and win the district seat back.

But there was a lot of people who still continued to say that they didn't think that their vote mattered or their vote counted. And we had a hard time trying to convince them to come out and vote. [27]

Q. What do you mean when you say conservative candidate?

A. Well, I would say that even within the Republican Party, there are various degrees of conservative—conservativeness. And along the spectrum, Terry was, you know, a little bit more to than right than center.

So in my opinion, you know, he was one of most conservative candidates there in the Republican primary.

Q. What, in your mind, would make Terry more conservative than the other candidates?

A. Terry had a proven track record of being fiscally conservative. And with his track record and his policies on fiscal conservatism and social issues, particularly, his stance on abortion, he—there was another candidate in the district Congressional race that wasn't against abortion.

And I, you know, thought that that candidate wasn't as conservative as Terry, who clearly said abortion is wrong, abortion is murder, and he wouldn't, as a representative in the U.S. [28] Congress, vote to do any thing that advanced the abortion agenda.

So that particular issue, along with some others, was why I would say that he was more conservative than the others. I always go with the most conservative candidate in any election, regardless of which candidate—or office they're running for. And that's why I chose Terry Baker.

Q. What does fiscally conservative mean to you?

A. Fiscally conservative means, you know, keeping taxes low, minimizing the cost of government, and maintaining essential services.

Terry Baker, with his track record as a three-term county commissioner of Washington County had enjoyed more than 16 years without a property taxes increase. And they weathered the financial storm of the Great Recession without affecting any essential services and without cutting employees.

So he was very conservative. He kept the debt ratio down and maximized, you know, the—kept the borrowing down and tried to keep the tax [29] base—tried to raise revenue through increasing the tax base, but not increasing the taxes on a constituents. So that's what I considered to be fiscally conservative.

Q. When you were speaking about Terry Baker's position on abortion, you mentioned other issues. What were those issues?

A. Well, I'd say that one of the things was on gun rights. The Second Amendment issues was a big thing. Terry Baker was very much pro Second

Amendment and was unashamed about it. You know, he went to a lot of gun clubs and sporting clubs.

I mean, we're from Western Maryland, Washington County and a lot of conservatives and Republicans there really like the right to, you know—hunting and use of firearms without burdensome restrictions. And Terry, you know, fit well into that category.

And additionally, I felt some of the other issues were, you know, foreign policy. I felt that Terry had a really good grasp on how the United States should handle foreign issues, like the [30] Iranian, you know, nuclear deal.

And I thought that Terry and everyone—o n that issue and a lot of the others always took the most conservative approach, which I felt was what was best for, you know, myself and for everyone else.

Q. On foreign policy issues, what do you identify as the most conservative approach?

A. Well, one of the first things is I think that we have to do what's right for Americans. And I think that personally I—I identify that - like for example, like with Iran, you know, we shouldn't have given them, you know, billions of dollars and lifted their restrictions. You know, it should have been a more conservative approach.

You know, Iran being a—one of the leading state sponsors of terror and, you know, targeting Americans and some of their organizations and entities, you know, that they operate out of, you know, I just don't agree with, you know, what they did. And especially their—their leadership. And so that's one issue.

Other issues were foreign policy, how we engage our military in use around the world. I was a very appreciative of Terry's stance on the military. You know, he wanted to increase support and funding for the military and rebuild our military.

And I was, you know, in the last election cycle and even right now, you know, we had the lowest number of ships in the Navy's ever seen. I've been in the Navy myself, we have the lowest number of Navy ships since before World War II, the lowest number of soldiers in the army since, you know, the end of World War I, I think it is, somewhere in there.

I mean, we're at the lowest levels and yet we're trying to maintain, you know, several theaters of operation around the world. And try to be relevant in the world and be the most powerful country in the nation.

And, you know, we're facing increasing threats from China. And, you know, we have seen a lot Russian aggression. [32]

And, you know, I think that, you know, Terry Baker's approach and some of his ways that he was going to deal with, you know, some of those issues I thought was the most conservative approach to that.

Q. Going back to talk about the—oh actually, one last thing.

As campaign manager, was that a completely volunteer position?

A. Yes.

Q. Okay. Going back to Amie Hoeber's campaign, that was Congressional District 6 in the general election; is that right?

A. Yes.

Q. So what kind of support did you lend to that—to her?

A. So we helped with sign placement in and around Washington County. And we also, as a member of the Republican Central Committee and a member of the club, I helped rally the Republicans and conservatives in Washington County to come out and help her. [33]

To put up signs, to hand out palm cards, to knock on doors for her campaign, to make sure that the polling locations and the—on election night were covered that had Amie Hoeber signs. And just general support like that.

Q. And do you know how many people volunteered with you in those efforts?

MR. MEDLOCK: Calls for speculation, vague.

A. I'd say fewer than 50.

Q. Have you ever volunteered for a national campaign other than the Congressional District 6 races?

A. No, ma'am.

Q. Have you ever contacted—or did you ever contact Roscoe Bartlett for a constituent services issue?

A. No, ma'am.

Q. Did you ever contact Roscoe Bartlett's office to help you with any matter?

A. No, ma'am.

(A discussion was held off the record.) [34]

(E-mail was marked Exhibit 50 for identification and was attached to the transcript.)

Q. Have you seen this document before?

A. No, I have not.

Q. Is that From line up at the top there, is that your E-mail address?

A. Yes, ma'am.

Q. And who is Donna DeWolf?

A. That is my stepmother.

MR. MEDLOCK: Just for reference, we're talking about Exhibit 50.

Q. We're talking about Exhibit 50. Yes. I'm sorry.

And do you see here at the sort of end of the top of the first line there, it says, R slash J?

A. Yes.

Q. Would you sign your E-mails like that?

A. Yes.

Q. Do you have any reason to believe that this E-mail was not written by you?

A. Nope. No, ma'am. [35]

Q. I don't have any stunning questions and this is not a memory test, but did you have a chance to read Exhibit 50?

A. Yes, ma'am.

Q. And do you see that it looks like a response to your inquiry about a Capitol tour?

A. Yes.

(A discussion was held off of the record.)

Q. Do you remember if you took a Capitol tour in 2008?

A. Yes, I believe we did. My stepmother and my father came to visit. And I—I remember doing Capitol tours, I don't remember when it was.

And I would like to say that I thought that I had reached out to one of the senators, but I didn't remember this at all.

Q. No. That's totally fine. I don't think I would remember something like that either. It's not a memory test.

A. I know I have reached out to Senator Cardin's office in the last years to try to get tickets to the Capitol Building. And I've always [36] thought I went through the senators. So—

Q. Okay. And have you ever contacted Congressman Delaney?

A. Yes.

Q. And on what matter?

A. Actually, I don't remember the matter. But there was a instance when I had heard about a bill that was trying to be passed.

And I remember them—it was on the radio, please contact your Congressman and encourage them to vote no on the issue. And I remember calling his office, telling him who I was, where I lived, and saying I encourage him to vote no on that bill.

And that was just a few years ago. But I don't remember what the issue was.

Q. Okay. And did you request a response from the Congressman?

A. No, ma'am.

Q. Did you get any response from him?

A. No, ma'am. I spoke with a lady on the phone, but that was it. [37]

Q. All right. And have you ever contacted Congressman Delaney's office for a constituent services issue?

A. No, ma'am.

(E-mail was marked Exhibit 51 for identification and was attached to the transcript.)

Q. You can take a minute to look at this. Just let me know when you're done.

MR. MEDLOCK: Just so we're clear, there's no To line in the E-mail. I'm not sure—

MS. RICE: That's right.

MR. MEDLOCK: It's just a weird set-up.

MS. RICE: Yeah. I don't know why.

BY MS. RICE:

Q. But I was just—what I was going to ask Mr. DeWolf is if he recognizes this document?

A. Yes.

Q. And what is it?

A. Just recently, I had reached out to—I did—well, I guess it is a constituent service.

I reached out to Congressman Delaney and Ben Cardin's offices, the senator, to try to get [38] tickets to the inauguration.

Q. Were you successful in getting tickets?

A. No, ma'am. Not from either Congressman Delaney. And I received a similar E-mail back from Senator Cardin.

Q. Okay. And did you—I think in the third paragraph it says, following the drawing, we will contact you to inform you if you were selected. Do you see that there?

A. Yes, ma'am.

Q. And were you contacted at all after you received this E-mail?

A. I believe that they sent me an E-mail saying that I didn't—I wasn't selected.

Q. Okay. That's fine.

When was the first time that you became interested in redistricting?

A. I was—it was before—right before the 2012 election. I was—Delegate Neil Parrott had sent out an E-mail. He had talked about upcoming events or something of that nature. And he had—on there, it had talked about the petition—sign [39] the petition for referendum on the redistricting.

So I went on and I signed that. But it was that time when he had sent it. So I learned about it through Delegate Parrott before the 2012 election.

Q. Did you ever know about the legislative redistricting process in Maryland?

A. No, ma'am.

Q. So we talked about your role in the petition drive.

Did you take any other action related to the 2010-2011 Congressional redistricting?

A. No, ma'am. I just signed the petition.

MR. MEDLOCK: Other than filing this case, of course. Is that what your question is?

MS. RICE: Other than filing this case.

Q. I know you signed the petition.

Did you vote against the referendum?

A. Yes, ma'am.

Q. And other than filing this case and other than signing the petition and voting against the referendum, have you taken any actions related to [40] Congressional redistricting after the passage of the last plan?

A. No, ma'am, not that I'm aware of. I mean, just this lawsuit and supporting my candidates for office.

Q. How did you first hear about this lawsuit?

A. I was contacted by Maria Pycha. I worked with Maria on the Bongino campaign. She was the finance director, county coordinator.

And she approached me and—or sent me an E-mail about it, I think, or called me. And asked—you know, told me that there was a lawsuit and that they were looking for people like myself who was, you know, very conservative, lived in the 6th District and that would be interested in signing on as a plaintiff.

So that was the very first time I had heard about this lawsuit was from Maria Pycha.

Q. And do you know that Ms. Pycha is no longer a plaintiff?

A. Yes.

Q. Do you know why she chose to voluntarily [41] withdraw?

MR. MEDLOCK: I'll caution you not to reveal anything that you heard about that from your attorneys. That's privileged.

But if it's something you heard from Maria or a source other than your attorneys, you can testify about that.

A. No, ma'am.

Q. And why did you decide to join the lawsuit?

A. Well, like most of the—or all of the other reasons that I joined any of the campaigns for office for any of the candidates. I wanted to effect change and make a difference. I wanted the most conservative outcome possible. And I have a hard time saying no when asked to help.

So if somebody asks me to help in a matter regarding, you know, supporting conservative candidates or conservative policies or positions, I want to

jump in and I want to help. So that was the crux of the reason.

And I—somebody asked if I would be [42] willing to help support this cause. And I wholeheartedly supported it and I wanted to help.

Q. How do you think this lawsuit will help conservative causes?

MR. MEDLOCK: Calls for speculation.

Q. What's your belief?

A. Well, my belief is that if—my belief that this lawsuit, I'm hoping that it would affect change in the way that the Congressional districts are drawn so as not to use political influence of people to draw the Congressional lines.

And by that I mean, I had never really been involved in politics before. And I never really—I mean, I've always paid attention, always watched the news, I was engaged. And when I say I engaged, I mean that's the really extent. I discussed it, you know, with my friends and family.

But then, you know, seeing what happened talking about the change in the Congressional district, I saw that it was going to happen, and I saw it happen and I was kind of demoralized.

I was very devastated. I didn't realize [43] that it could have really happened. I didn't really understand the effects that it had.

And so for me, I lived in a, you know, very rural conservative area. And I've always been conservative. I've always been—my—most of my family is conservative. And not just Republican. The most, you know, conservative candidates.

And I had this understanding that I was—you know, had conservative representation in the 6th

Congressional District in the candidates that I voted for.

And then this change happened in the district and, you know, I kind of went through a grieving process with it. And that grieving process was literally just like, you know, five stages of grief.

At first, I was shocked and I didn't believe that it was really happening. I didn't understand how it was—how that could happen, you know, so—so much. I mean, I understand redistricting and I understood the, you know, cursory, you know, what they explain in schools and [44] things.

But what—when I saw that it changed so much and that the district switched from, you know, Republican to Democrat, you know, by—by so much, you know, it really angered me. And I didn't, you know—so I went, you know, from shock and disbelief to anger.

And, you know, I was really demoralized for a long period of time about this. And I—you know, a lot—I complained to my family and friends. And a lot of people said, you know, what difference does it make. How are you going to -you can't do anything about it. You know, there's—the powers that be made it happen. There's, you know, it was a game changer they changed the game. There's nothing you can do.

And I stewed on that for months and months after the election of 2012. And it was many months, probably mid-Summer is when I finally started realizing that maybe there was something that I could do to help usher about a change from what I had gone through. [45]

So when I finally accepted that that's what it is and, you know, I have to deal with it, that's when

I, you know, started reaching out. And I went to one of Delegate Parrott's fundraisers and met Dan Bongino.

And that's when I started thinking that maybe there's—you know, we've got to get people out, we've got to encourage them to vote. And along the way, I met so many people like me who were so demoralized and so, you know, discouraged about the redistricting and about how, you know, everything was the way it was for so long and then all of a sudden, the game was changed and we -it's a whole new ball game now.

And you know, we have to work, we have to get out and we have to do something. We have to work to try to effect a change and, you know, for the candidates that we want. So that's—I hope that answers that question.

Q. You mentioned that you wanted—one of the things you hoped to get out of the lawsuit was a change in the process of redistricting, if that's [46] what you said.

Is that what you said?

A. Yes.

MR. MEDLOCK: Mischaracterizes his testimony. Go ahead.

Q. What kind of change would you like to see in that process?

A. Well, I think that I'd like to see it change back to the—the district that's similar to the make-up and composition that it was.

You know, the five western counties, you know, Garrett, Allegheny, Washington, Frederick, and Carroll are all, you know, fairly rural similar like

demographics and, you know, geographical, you know, composition.

And, you know, adding in Montgomery County right outside of, you know, Washington, DC and some of the very rich areas, and I mean, everything is drastically different.

And one of the—I mean, I would hope to see the change that, you know, others that I've talked to and Dan's Congressional campaign, [47] Terry's, Amie Hoeber's, you know, there's a similar thread, you know, among all three of them.

And even in the county commissioners and the state delegates, everybody has this sort of belief that I've talked to—a lot of people do -that well, the game's been changed. You know, things are not equal now. They're not—it's completely unequal, there's not much we can do about it.

And, you know, we looked—on Dan Bongino's campaign, you know, we really worked hard—we worked very, very hard. And, you know, we tried so hard to encourage people to come out and vote even when they said that their vote didn't matter, their vote didn't counted.

And it's not the normal. It's—they were saying that because of the redistricting. That's what they were saying. And I believe that.

And so it was like we had to work extra hard to convince people to come out and vote instead of just, you know, they were lazy and didn't want go to the voting box or the ballot box. [48]

So the change that I wanted to see is to go back to, you know, similar ways that it was and for everyone to have that same sort of feeling that they used to have that, you know, the expectation that their vote mattered, their vote counted.

A lot of people in Washington County and even in the western counties that I've encountered don't think that it matters or that it counts. And so the effect of the change for the Congressional district would be just that; that people get their voice back or their feeling that their vote matters and counts.

And then along the same, you know, geographical boundaries that I talked about that people in like communities. You know, it's drastically different.

Q. How often do you go to Baltimore County?

A. Very rarely now.

Q. How has the 2011 redistricting harmed you?

MR. MEDLOCK: Objection, vague.

Q. You can answer.

A. Well, like I was just saying, I would say [49] that harm is a—you know, to measure the harm that it had on it, I tell you I really experienced the stages of grief.

You know, the disenfranchisement grief. You know, the shock, the disbelief, the—the anger, the depression, the acceptance. I went through each one of those stages when I learned that this has happened.

I really didn't understand—I mean, I knew that—that it was necessary every 10 years per the Constitution, you know, populati[illegible] changes, the Census. And then we—we moved the Congressional districts according to population.

I understood that at the time. And I understood that it was necessary for them to be redrawn, you know, slightly here and there.

And—but I had no idea and I was never prepared that it would such a—such a huge change. And

that huge change corresponded to a huge change in representation and it was a game changer.

And that game changer was devastating [50] because when I look back, you know, I'll start back—give you a little back story of that.

In 2008, I was devastated with, you know—very devastated with the Presidential election. President Barack Obama had the White House, very strong leads in the Senate and the House of Representatives. And it was a huge, huge change and I was really demoralized by that.

But then in 2010, there was a referendum on President Obama's policies. We saw huge changes in the House of Representatives. And then, you know, even more so in 2012, there was uptick in people who were coming out and there was—people were coming out, the conservatives, the Republicans, and they were starting to pay attention, like myself.

And I thought, well, surely, you know, even, you know, 2012, when we were talking about the conservative district changes, you know, I realized that, you know, it was being talked about and we had the referendum.

But I said to myself, well, surely, you [51] know, other conservatives out there will see what's happening on the national stage, the beginning of the Tea Party movement, you know, and the conservatives were, you know, really coming out in full force. And I said, well we're making progress. It's a step in the right direction.

And, you know, we had a chance of continuing this movement. And I was—I was sort of calm about it. Roscoe Bartlett was still my Congressman. I still had a Republican in the House of Representatives.

And he was, you know, still voting for conservative principles that I wanted him to vote for and that others, you know, like me in our district.

And then when the 2012 election happened, and on the referendum that the question about the district, it changed it. And then overnight, literally overnight, we went from—I wasn't in the same district that I lived in—I mean, physically I was, but it wasn't the same representation. [52]

It wasn't the same thing for me. It was, oh, my goodness, now I'm in a district that is, you know—went from strong Republican and conservative to strong, you know, Democrat. And my representative was now a Democrat.

And I wasn't sad that it was—that—it wasn't about the person. It was about the principles and the philosophies that went along with who that person was—John Delaney was representing in Congress.

And I felt like I no longer had a representative in Congress. So my expectations were completely changed from when, you know, from everything up to that point.

That election changed my life dramatically. It changed me from, you know, just being—just paying attention to what was going on and complaining about it and yelling at the television, like I tell everybody, to uh-oh, we need—it's not enough. You have to do something about it.

Because I was just—the—I felt that [53] the State of Maryland, whomever made those decisions—I had no idea who—how it happened or, you know, how it came about. But the district was—all the districts were re-drawn. And I—it was—it was an

overwhelming shock to me that that could happen like in the magnitude that it did.

And so how did it harm me? It harmed me in the fact that I was shocked, I was horrified, I felt overwhelmed that this happened. And it really—it led me into a state of anger and then, you know, despair. Kind of depression, because I just—I felt like, well what—what could I do about it.

I had this hope that we were going in the right direction in our country and then it was a total game changer, unforeseen. It's like they changed the rules of the entire game that we were playing.

And here I thought if we could just encourage people to come out and vote, that in our communities—because historically, you know, [54] Washington Country and Western Maryland, 6th District was historically conservative. And now all of a sudden it's not, overnight.

And so the harm was the devastation that came to that. That the level of that feeling. And it lingered for months.

And like I said, after the election—that was in November—it wasn't until mid-Summer, probably July or August, that I really started coming about. And people asking me all the time, well, why are you complaining about it, what can you do you about it.

It was a feeling of hopelessness and despair of them saying—people saying over and over again, you just have to deal it, there's nothing you can do about it, what can you do.

And people kept asking me that and asking me that. And it was—it was awful. It's hard to describe. Those are the only adjectives I can think of is, you know, despair and hopelessness.

And then finally I said, you know, I got to see what I can do. What can I do about it. I [55] didn't know. I had no idea. No idea what it meant to be politically involved or to help with campaigns.

I had never done that before, I never had any inclination to do that before. I didn't know who those people were that I seen on television knocking on doors or answering phones or things of that—or you know, calling people.

And so that's when I went to one of Neil Parrott's fundraisers. And that's when I met Dan Bongino. And that's when I said—and I quote -if there's any small way I can help your campaign, I'd would be happy to, end quote.

I mean, I remember that because I didn't know what I could do. Because everybody kept saying, well, what can you do about it, you can't do anything about it.

And so I guess that's the answer to the question, what harm did it cause me. It caused me to be in this state for—for so long.

MS. RICE: Okay. Those are all the questions I have. [56]

MR. MEDLOCK: Okay. I have maybe two.

EXAMINATION BY COUNSEL FOR THE PLAINTIFFS BY MR. MEDLOCK:

Q. Sir, you've mentioned the 2012 redistricting referendum.

Do you remember that testimony?

A. I'm sorry, could you repeat that?

Q. Do you remember your testimony that there was a 2102 redistricting referendum in Maryland?

A. Yes.

Q. Can you describe what the referendum question looked like on the ballot?

A. I don't remember the exact vernacular of it. But I will tell you that when Delegate Parrott had said that there will be one question on the referendum, I thought to myself, oh, great, well at least we'll get to vote on it and people will vote no because they don't want to redistrict and bring in this large swath of, you know, other populations from other areas.

But then when I was at the—the first time I believe I saw it was at the voting box. And [57] the only thing I remember it saying was, do you support—it was something like, do you support the Constitution of the United States.

And I thought, my God, is this the question that I voted on the referendum, you know, to oppose? Is this the question that I had—you know, we had been talked about that was going to change the Congressional district lines. What does this mean, you know.

In accordance with the Constitution, if I vote no, then is that saying that I don't support the Constitution? It was a—I was in shock. I stood there and I literally read the question again and again several times.

And I convinced myself this is the question that, you know, is the referendum on the redistricting. And I voted no on it.

But the wording of the question was a huge slap in the face to me. I just couldn't believe that it was written in that way. I felt incredibly ignorant reading it because, like I said, I had gone in thinking that this is, okay, it's going to [58] be an easy thing.

Do you vote to—you know, are you going vote against the redistricting. But the way it was worded, I felt, you know, like, my God, it's going to be awful to vote against this, because I wouldn't support the Constitution.

Deposition of Plaintiff Kathleen O'Connor

Q. Would you please state your name for the record?

A. Kathleen O'Connor.

MS. KATZ: And I'm going to show you something. We are sequentially numbering documents. So this is going to be document 52—Exhibit 52. [6]

(Whereupon, O'Connor Deposition Exhibit 52 was marked for identification and attached to the transcript.)

Q. Do you recognize this document?

A. Yes.

Q. What is it?

A. It's a Notice of Deposition.

Q. Okay. This is the Notice of Deposition that you were served with in this case?

A. Yes.

Q. Have you ever been deposed before?

A. No.

Q. Okay. So I am just going to over a few housekeeping rules. Because the court reporter is trying to take down everything we say, I won't talk over you. I will wait until you finish answering a question to ask a new one.

I just ask that you wait until I finish answering a question—asking a question to begin your answer. Also, please provide verbal responses—

A. Yes. [7]

Q. —for the record. Great. If you do not understand a question I ask, please let me know and I will try to rephrase it so that you do understand it. If you don't ask me to rephrase a question, I will assume that you understood it.

A. Okay.

Q. And we are not going to be here for very long, I would certainly hope. But if you need a break at any time, please let me know, and we will find a good stopping point to take a break.

A. Okay. Thank you.

Q. Sure. Just for—are you—before we get started, I was going to ask are you taking any medication today that may affect your ability to testify or recall events?

A. No.

Q. Thank you. Where do you currently live?

A. My current address is 9321 Watkins Road, Gaithersburg, Maryland. The zip is 20882.

Q. And how long have you lived there?

A. Since August of 2003. [8]

Q. Okay. Prior to that, prior to August of 2003, where did you live?

A. I lived in Germantown, 11411 Seneca Forest Circle in Germantown, Maryland.

Q. And how long did you live there?

A. Five years.

Q. Okay. So like 1998 to 2003?

A. Yes.

Q. Do you happen to know, is that in the 6th congressional district?

A. Germantown, I believe so.

Q. And where did you live prior to that address in Germantown?

A. I lived in Damascus prior to that.

Q. For how long?

A. Probably about two years.

Q. So about 1996 to 1998?

A. Yes.

Q. And was that also in the 6th congressional district?

A. I do not know. I was probably not even registered to vote at that time. So I don't know. [9]

Q. Do you recall when you first registered to vote?

A. I was trying—I thought it was 1994, but I don't recall exactly.

Q. Okay. But around 1994 you think?

A. I think so. I'm just not sure what my congressional district was when I was living in Damascus. Therefore, it makes me wonder if I was actually registered to vote at the time. I apologize.

Q. No. Please don't apologize. Do you recall if you voted in the 1996 presidential election?

A. I do not recall.

Q. Okay. So is it possible—

A. Which election was that?

Q. So in 199—this is going to be history. Clinton, Dole. Clinton was running for re-election.

A. I do not believe I voted in that election.

Q. Is it possible you were not registered at that time? [10]

A. It's possible.

Q. You may have registered after 1996?

A. Shortly thereafter. Yes, it's possible.

Q. Do you remember the first election in which you voted?

A. I'm sorry. No, I just don't.

Q. No problem. What is the highest level of schooling that you attained?

A. Just paralegal school after high school.

Q. Where did you attend high school?

A. Paint Branch.

MS. KATZ: I grew up in Montgomery County. I went to Kennedy.

THE WITNESS: Oh, yeah.

Q. Not far. And where did you attend paralegal school?

A. It was Katharine Gibbs School in Rockville at the time.

Q. What kind of work do you do now?

A. Now I am a firearms manufacturer and dealer.

Q. What sort of firearms do you manufacture? [11]

A. Well, I have a manufacturing license. So we manufacture—it's—actually, we are not manufacturing. We are an assembler, technically. We don't make any components. We just assemble. But mostly AR-15s.

Q. And how long have you been doing that?

A. Almost three years.

Q. What did you do before that?

A. I was a stay-at-home mom and professional volunteer for my children.

Q. Did you ever work as a paralegal?

A. Yes, I did.

Q. Do you recall when that might have been?

A. That would have been—it was five years at Shulman Rogers in Montgomery County. Let me think when my daughter was born. I'm sorry. I didn't think about this ahead of time. She was born in '99. Probably '93 to '98.

Q. Is that the sign you see when you drive over the bridge Shulman Rogers?

A. I was not there at that building. Yeah. We were down in Rockville. [12]

Q. Other than the firearms manufacturing and dealing and working as a paralegal, have you had any other professional jobs?

A. Prior to that, I was a legal secretary while I was going to school. Oh, and I worked at Fullman Daney in Bethesda prior to going to Shulman Rogers as a—pretty much a legal secretary.

Q. Got you. Do you recall if, when you were living in Damascus from 1996 to 1998, if you voted in any elections during that time period?

A. I just—I don't recall, because I don't know where my precinct would have been. I'm trying to recall where I would have gone to vote, and I just don't recall.

Q. Okay. What about at the—in the Germantown address at Seneca Forest Circle, I believe you said?

A. Yes. Yes.

Q. So you moved there in 1998. Do you recall voting when you lived at that address?

A. Yes, I do.

Q. Okay. Did you vote in both primary and [13] general elections—

A. I would have, yes.

Q. —during that time? Do you think that while you were living at that address, you ever missed an opportunity to vote?

A. I don't believe so.

Q. And do you recall during that time period from 1998 to 2003 who your congressional representative was?

A. It was Roscoe Bartlett.

Q. Then from 2003, you said, to—I think is when you said you moved to the address where you live now in Gaithersburg?

A. Yes.

Q. Have you voted in every election in which you have been able during that time?

A. Yes.

Q. And does that include primary elections as well?

A. Yes.

Q. Okay. And do you know who your congressional representative was or is or has been [14] from 2003 to the present?

A. Yes. It was Roscoe Bartlett and then went to John Delaney.

Q. When you voted in the elections from 1998 to the present, do you always vote for your congressional representative?

A. As far as my party affiliation?

Q. No. I'm sorry. Do you—sometimes people go in, they vote for president, they vote for governor, but then they don't mark off other candidates on the ballot.

Do you recall if you always marked one of the candidates running for congressional representative when you voted?

A. Yes. I always voted for a congressional candidate, yes.

Q. Thank you. Are you registered as a member of a political party?

A. Yes.

Q. Which party?

A. Republican.

Q. And do you recall when you first [15] registered your party membership?

A. When I registered to vote. It would have been the same time.

Q. And have you always registered as a Republican?

A. Yes.

Q. Have you ever voted for a candidate who was not a Republican?

A. Yes.

Q. When was that?

A. I don't know the year, but I voted for a candidate who was running for Register of Wills in Montgomery County who was not a Republican.

Q. Do you know what party that person was?

A. Democrat.

Q. Do you happen to recall around what year that might have been?

A. It would have been while I was working at Shulman Rogers between, I guess, '93 and '98.

Q. Okay. Is that the only non-Republican you recall voting for?

A. That I recall, yes. [16]

Q. Did you ever vote for someone other than Roscoe Bartlett when he was on the ballot?

A. I don't believe so.

Q. So you believe you voted for him in all the primaries?

A. I believe I always voted for him when he was on the ballot.

Q. Okay. What are the qualities that you look for in a political candidate?

A. Honesty, integrity, someone who is going to listen to the voters and consider the people in their district and their concerns.

Q. If a candidate emulated those qualities, would it matter to you what party they were affiliated with?

A. No.

Q. Are you a member of any political organizations?

A. I am an elected member of the Republican Central Committee, if that counts.

Q. You said you are an elected member. Is that the Montgomery County Republican—[17]

A. —Central Committee, yes.

Q. What is your title or status?

A. I'm just a member right now. I was former communications chair. But I stepped down from that position probably six months ago.

Q. And how long were you the communications chair?

A. From October of 2013 until probably summer of 2016.

Q. Okay. And do you recall when you—I don't know what the right word is—but like joined that committee?

A. Yes. It was October of 2013.

MS. KATZ: Okay.

A. I was appointed for a vacancy. And then I ran for election and was elected in 2014.

Q. Got it. And what do you do for the committee now as an elected member?

A. Not very much right now, to be honest. I'm not very active and involved right now.

Q. And what did you—what were your major responsibilities as the communications chair? [18]

A. I handled media requests. Anyone who wanted to speak to the chairman or ask for opinions on something that was happening politically, they wanted to—I handled social media.

Q. Okay. And why did you—I know you said that you were appointed in October of 2013.

A. Uh-huh.

Q. Why did you decide to become involved with that organization?

A. Well, there was an opening in my district. And I felt like that would be a good place to be involved and active, because I had spent so many years not involved and not active.

Q. So would you say that before October of 2013, you were not active in any political organizations?

A. Before 2010, I was not involved at all. And then I just slowly started becoming involved after 2010.

Q. What changed in 2010 that got you slowly getting involved?

A. I felt like the direction of our state was [19] going in a direction that was concerning me. And I wanted to be more informed and involved in perhaps the direction. I'm a lifelong Maryland resident. So, you know, I care about my community.

Q. Was there something specific about the direction Maryland was moving that concerned you?

A. Away from my personal values, I felt.

Q. What are those?

A. Just conservative—typical conservative values.

Q. What are those? What do you consider to be typical conservative values that you share?

A. Well, I—I—I think smaller, more accountable government, fiscal responsibility. I'm concerned about

our debt. You know, there is a lot of social issues in Maryland that are—do not align with my values that, you know, just concern me.

Q. Were you involved in Dan Bongino's congressional campaign in 2014?

A. Yes.

Q. How were you involved? [20]

A. I'm trying to think of—I had a title. I can't think. It's probably like an honorary title. What was my title in his campaign? I honestly can't remember. I basically helped get events, fundraising events, get people to events. I handled social media. I did a lot of photography and parades and door-knocking. I wasn't the Montgomery County coordinator so much, but I did a lot of those activities, just normal campaign canvassing, community events and things like that.

Q. Were you—were you a paid staffer?

A. No.

Q. So this was all volunteer?

A. Yes.

Q. Okay. Had you volunteered on any campaign before Dan Bongino's?

A. Not before his. I did volunteer on his Senate campaign. Prior to that, I had no political experience at all.

Q. Okay. Why did you get involved with the Bongino campaign? [21]

I met Dan at a conference and he had just become a candidate. I just really connected with him. I liked his message. I liked his energy and his concerns.

And it wasn't until a few months later that I joined his campaign. The first time I saw him speak, I really—I really liked his candidate platform.

Q. I'm sorry. I wasn't specific. Was this his 2012 Senate—

A. This was the Senate the first time I met him, yes. I liked him as a candidate, as a person.

Q. And is that why you decided to volunteer again in 2014?

A. Yes. I felt like that campaign was worth time and effort.

MS. KATZ: I'm going to mark this. Would you take a look at this?

(Whereupon, O'Connor Deposition Exhibit 53 was marked for identification and attached to the transcript.)

A. Yes. [22]

Q. Do you recognize that document?

A. Yes.

Q. What is it?

A. That is one of my e-mails.

Q. Do you recall in what capacity you sent this e-mail?

A. What is the date? 2013. It's—I don't know if I had officially joined the campaign at this time. But I was part of a women's group. So I could have been out canvassing, you know, as part of that group. I'm not sure.

Q. Who is the recipient up there of the e-mail?

A. It looks like Brad Botman.

Q. Who is that?

A. I don't know if he was on the central committee. He was like the support person. I'm not sure if he officially was on the committee.

Q. In the first sentence—I'm sorry.

A. I'm sorry. I think it's just a friendly exchange. But—

Q. In the first sentence of the e-mail, you [23] reference Dan.

A. Yes.

Q. Is that Dan Bongino?

A. Yes.

Q. Okay. In the e-mail, you reference that you talked to about 25 people while canvassing, and that only two had any idea who their congressman was.

Do you recall those conversations?

A. I mean, I did a lot of canvassing over the years. And conversations like that where just people who had zero political involvement, I don't know if they ever voted, they just—not only did they not know who their congressman was at that time, they never knew. That was my take-away from that.

Q. Okay. Thank you. Other than as part of your work as a volunteer on Dan Bongino's campaign, have you ever attended an event held by your congressional representatives?

A. No, I have not.

Q. Do you recall ever contacting your [24] congressional representatives' constituent services?

A. I have not.

Q. Have you ever contacted your congressional representative about a particular issue?

A. I probably would send representative Bartlett thank-you messages after a big vote. I just don't

recall. I don't think I have ever contacted John Delaney's office about anything.

Q. Why haven't you contacted him?

A. John Delaney's office? I just feel like it's not worth the time and effort. His mind is made up on every issue, and my time would be wasted by contacting him.

Q. What leads you to believe that his mind is made up on every issue?

A. I feel like he is going to vote—whatever the Democrats are going to put forward, he is going to vote with them on that issue. There is no leeway. I can't imagine—I don't really know that he ever did not do that, in fact.

Q. Do you recall when you first became [25] interested in the subject of redistricting?

A. I do not.

Q. Do you recall when you first learned about the 2011 redistricting plan? I'm talking about the 2011 congressional redistricting plan.

A. Obviously, I knew about it. I was not involved or—I had no—you know, I was involved in other things. I did not have any—I didn't put any effort into supporting or really not supporting it.

I really had no knowledge of what was going to happen or what the plan was.

Q. Did you take any action regarding the 2011 congressional redistricting plan?

A. I don't believe so, no.

Q. You didn't testify before the governor's redistricting advisory committee?

A. No.

Q. Did you post any public comments as to the plan revealed to the public?

A. I don't believe so. I wasn't on social media or anything. I don't think I did, no. [26]

Q. Are you aware that the congressional redistricting plan was petitioned to referendum?

A. Yes.

Q. Do you recall if you helped gather signatures for that petition drive?

A. I did not help gather signatures. I may have signed it. I probably most likely did sign it. I don't recall. I'm sure if there was one, I did sign it.

Q. Do you recall voting on the referendum?

A. Yes.

Q. Do you recall how you voted?

A. I'm sure I voted against—you know, I wanted to stop the redistricting. So however it was worded.

Q. Got it. Aside from joining this lawsuit, have you taken any other action about redistricting after the 2011 cycle?

A. No.

Q. How did you first hear about this lawsuit?

A. I believe information about it was sent to our central committee. And some of us did live in [27] the district and probably met the criteria.

Q. Do you know who sent the information to the central committee?

A. I do not. I'm sorry. I would guess it was another member on the committee was circulating it to our group.

Q. Why did you decide to join the lawsuit?

A. Because I think it's important. I live in Montgomery County. I have no Republican representative at the state or local county level, anywhere.

After this redistricting, I was left with—my one, you know, sort of piece of comfort in the political realm was taken away, I think intentionally.

Q. Do you think you were harmed by the 2011 congressional redistricting plan?

A. It ensured that I will no longer have representation. And I do not believe it's even a competitive district at this point.

Q. When you say it ensured that you will no longer have representation, what does that mean? [28]

A. I had a representative that shared my values and my views before the redistricting. And after, I don't see any way for any Republican candidate to win that district again because of the influx and the change in the voter make-up of that district.

MS. KATZ: I'm going to take a short break.

(Thereupon, there was a recess taken at 1:24 p.m.)

(Thereupon, the proceedings were resumed at 1:30 p.m.)

BY MS. KATZ:

Q. You had testified that you didn't think a Republican could win in the 6th congressional district.

A. Uh-huh.

Q. Did you believe that at the time you were volunteering for Dan Bongino's campaign?

A. I believe deep down, yes, I did believe that a Republican could not win, although Dan was a fantastic candidate, and he already had name [29] recognition from the Senate campaign.

And he had become a consultant for MSNBC, I believe, CNN, Fox News. He had great national exposure. And people across the country knew who he was. I thought wow, if anyone can, Dan could do it.

But I think it actually proved the point that even the best Republican candidate with that kind of exposure, which will probably never happen again, cannot win in that district.

Q. Do you think it hurt his campaign that he didn't live in the 6th district?

A. No. Because I don't think Mr. Delaney lives there either.

Q. And can you tell me why specifically you don't think a Republican can win in that district?

A. Because the numbers of voters for each party are wildly—you know, there is just too much of a gap between the number of voters in that district, the different parties.

Q. Do you actually know the numbers of the voters in that district? [30]

A. I don't. But I have seen the maps, and I know Montgomery County pretty well as far as their political views. And that big chunk of Montgomery County that was placed in that district just overwhelms the population, the density. Being out in Western Maryland, there is just not the population and the density to overcome that.

March 21, 2017 *Washington Post* article

BATTLES CONTINUE IN ANNAPOLIS OVER THE USE OF BAIL AND REDISTRICTING - THE WASHINGTON POST

By Ovetta Wiggins

The Maryland Senate gave preliminary approval Tuesday to a bill that would allow bail for criminal defendants even if they cannot afford to pay, potentially undoing a recent decision by the state's highest court and setting the stage for a battle with the more liberal House of Delegates and members of the state's Legislative Black Caucus.

After a prolonged debate, the Senate voted to advance the measure despite objections from Attorney General Brian E. Frosh (D) and advocates who say the legislation will lead to more poor defendants remaining in jail because they can't afford to post bond.

The Maryland Court of Appeals issued a rule change last month that required judges to impose the "least onerous" conditions when setting bail for a defendant who is not considered a danger or a flight risk.

Also Tuesday, after a short but lively debate, the Senate delayed action on another bill that is certain to lead to a showdown with Gov. Larry Hogan (R) over redistricting changes.

Democratic legislative leaders have backed a bill that would try to set up a Mid-Atlantic regional compact with New York, New Jersey, Pennsylvania, Virginia and North Carolina on redrawing congressional districts.

On Monday, a House committee voted against Hogan's redistricting proposal, which would have created

a nonpartisan commission to determine the boundaries for the state's congressional and legislative districts.

Sen. Craig J. Zucker (Montgomery), the lead sponsor of the Democratic bill, said redistricting is a national problem that has not been addressed on a federal level. The bill attempts to address it on a regional one, he said, adding: "This presents an opportunity for Maryland to take the lead."

The bill is contingent on the other states enacting similar legislation and would become void if the compact is not created by 2032. It is an attempt to circumvent political opposition to the idea of lawmakers in a heavily Democratic state, like Maryland, giving up control over redistricting while lawmakers in neighboring, Republican-majority states are allowed to keep that power.

"Congressional redistricting is a national problem that deserves a national solution," Senate President Thomas V. Mike Miller Jr. (D-Calvert) said. "However, when the federal government fails to lead, it is our responsibility to take the charge."

U.S. House Minority Whip Steny H. Hoyer (D-Md.) said in an interview that he supports the concept of the bill being pushed by Democratic state lawmakers, calling it "a step in the right direction but not as far as it ought to go."

Hoyer favors a bill pending in Congress that would institute a bipartisan redistricting commission in every state. An identical bill did not advance in the previous session and has yet to get a hearing this year.

"Now let me make it clear, I am a serial gerrymanderer," Hoyer said. "As long as North Carolina, Pennsylvania, Ohio and Florida, Texas, other states that I could name, pursue partisan redistricting, there's no reason to expect that those of us who are in

Democratic states won't do so as well. But what we ought to have is a national mandate that redistricting is to be done in a fair, balanced way through nonpartisan commissions."

State Senate Minority Leader J.B. Jennings (R-Baltimore County) called Zucker's bill "a joke" and asked why Democrats are "kicking the can down the road until other states do something."

"It's our state. It's our lines," Jennings said. "Why can't we just fix our problem right here in Maryland?"

A spokeswoman for the governor said the Democratic bill was a "political ploy designed to give the appearance of supporting redistricting reform while ensuring that it never actually happens."

On the bail bill, the Senate rejected several amendments that would have kept the rule set by the Court of Appeals in place. The court issued the rule change after Frosh raised questions about whether the state's use of cash bail was constitutional.

Sen. Robert A. Zirkin (D-Baltimore County) said the legislation, sponsored by Sen. C. Anthony Muse (D-Prince George's), gives discretion back to individual judges, allowing them to issue bail when they think it is appropriate.

Frosh and members of the Legislative Black Caucus had been pushing the legislature not to take action on any bail legislation this year and let the court's decision remain in place.

Last week, Del. Curtis S. Anderson (D-Baltimore), the House sponsor of the bail bill, withdrew his version of the Senate legislation after talking to court officials and deciding that lawmakers should wait and assess the impact of the rule change over the coming year.

In other action, the Senate gave initial approval to a bill that would prohibit school districts from suspending and expelling 4-year-olds. The measure would also limit other young students in kindergarten through second grade from receiving similar discipline.

Opponents of the bill argued that the measure will tie the hands of local districts; its supporters said young students should not be suspended or expelled unless they pose an "imminent threat."

More than 2,200 students in that age group were suspended or expelled last year, many because they were disruptive or disrespectful.

Nov. 3, 2015 *Baltimore Sun* editorial

The questions are simple, fundamental and almost as old as America itself: How, together, do we citizens end partisan gerrymandering and the political polarization it creates? In a two-party system, how do we check the General Assembly majority's incentive and ability to determine the partisan make-up of our state's congressional delegation by putting a heavy hand on the scale to get it?

Maryland steps to the center of a long, national search for answers this week. Today in Annapolis, a commission that spent the last two months examining the way Maryland draws congressional and state legislative districts will vote on their final recommendations to Gov. Larry Hogan. Tomorrow, in Washington, the U.S. Supreme Court will hear arguments in Shapiro v. McManus, a lawsuit I and two Republican voters filed to challenge the congressional lines state legislators and then-Gov. Martin O'Malley drew in 2011.

A century ago, the states ratified the 17th Amendment to the Constitution, giving voters the power to directly elect our U.S. Senators, who previously were appointed by the legislatures. Now, many states — not just Maryland — alter district lines to effectively determine the partisan make-up of their House delegations; they do so without the authority of a constitutional amendment giving them this role in lieu of the voters.

The underlying argument I and my co-plaintiffs are pursuing invites the justices to recognize minimum standards for redistricting based on the First Amendment and Article 1 of the Constitution. This would break the partisan stranglehold that has been exploited by Republicans in "red" states and by Democrats

here in Maryland and other "blue" states across the country.

Small segments of voters should not be tied by ribbons with very different voters from distant parts of the state — just because those voters have a history of supporting candidates inconsistent with the majority in the legislature. The poor quality of representation afforded by such districts cannot be justified by the desire of the legislature to so firmly determine the make-up of our House delegation.

Here in Maryland, the governor and legislature drew congressional districts that pretty much guarantee Democrats a 7-1 edge in the state's congressional delegation. As the district judge noted in his opinion in our case, Republicans have done almost exactly the same thing in states where they control the legislature. However, the Supreme Court has already held that in regulating congressional elections, the legislatures may not unduly influence the outcomes.

The specific issue before the court on Wednesday is whether our lawsuit and others like it can go forward in the first place. Congress has established special three-judge district courts to hear such cases, with direct appeals to the Supreme Court. However, a decade ago, the Fourth Circuit Court of Appeals, which covers Maryland, decided that a single judge must first decide if our legal theory is valid. In other states, the three-judge court makes that decision, followed by immediate review by the Supreme Court.

I'm a Democrat and proud of it. I served as the chair of my precinct in Bethesda for several years. I testified before the Governor's Redistricting Advisory Committee after the 2010 Census, but the districts that former Governor O'Malley and the legislature's presiding officers drew in 2011 offended me. We should

not so mute the political voices of our neighbors in other parts of the state; we are all Marylanders. I then worked with former Montgomery County Council member Phil Andrews, who was leading the effort in Montgomery County to bring the map to referendum in 2012 — as part of the state-wide effort started by Del. Neil Parrott.

I know that in Republican majority states, GOP legislatures have split neighborhoods and manipulated boundaries to give their party an unfair advantage. So I went to court, representing myself and co-plaintiffs in the U.S. District Court and the Court of Appeals, even without a legal education. Working on the case increased my interest in law, to the point that, at age 55, I'm now a first-year student at American University's Washington College of Law.

If the high court agrees with our argument, limits on gerrymandering would apply to congressional maps across America, reducing the incentive for legislatures to do this in the first place.

Common Cause and other citizen advocacy groups working on this problem picked up a key ally last year with the election of Governor Hogan, who made good on a campaign promise by appointing the reform commission and seems committed to pushing its proposals through the legislature. It was heartening to hear a member of the Democratic leadership like Sen. Conway suggest support for compact and contiguous districts, even if not for the full recommendations of the commission.

As a litigant and a proud Common Cause member, what's most exciting about all this is that the impetus for change is coming from citizens who've seen a problem and have resolved to tackle it. America was founded on the principle that power should flow from "we the

people." That's what our Constitution says. The growing redistricting reform movement is evidence that that idea remains relevant today.

Defendants' Second Supplemental Responses to Plaintiffs' First Set of Requests for Admissions

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

O. JOHN BENISEK, ET AL.,
PLAINTIFFS,
V.
LINDA H. LAMONE, ET AL.,
DEFENDANTS.

CASE NO. 13-CV-3233

DEFENDANTS' SECOND SUPPLEMENTAL RESPONSES TO PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSIONS

Pursuant to Rule 36 of the Federal Rules of Civil Procedure, Defendants Linda H. Lamone and David J. McManus, Jr., state as follows for their responses and objections to Plaintiffs' First Set of Requests for Admissions.

PRELIMINARY STATEMENT

The following responses are based on the Defendants' knowledge, information, and belief, and are complete to the best of their knowledge at this time. The Defendants assume no obligation to supplement or amend voluntarily these responses beyond applicable legal requirements to reflect information, evidence, documents, or things discovered following service of these responses. Furthermore, these responses were prepared based on the Defendants' good faith interpretation and understanding of the Plaintiffs' requests and are subject to correction for inadvertent errors or

omissions, if any. These responses are given without prejudice to subsequent revision, amendment, or supplementation based upon any information, evidence, and documentation that hereinafter may be discovered.

The Defendants reserve the right to refer to, or to offer into evidence at the time of trial, any and all facts, evidence, documents, and things developed during the course of discovery and trial preparation, notwithstanding the reference to facts, evidence, documents, and things in these responses.

The Defendants reserve all objections or other questions as to the competency, relevance, materiality, privilege or admissibility of evidence in any subsequent proceeding of their responses and of any information or documents produced in response thereto.

The Defendants state that, except for facts explicitly admitted herein, no admission of any nature whatsoever is to be implied or inferred from their responses. The fact that the Defendants have responded to a request should not be taken as an admission, or a concession of the existence of any fact set forth, inferred or assumed by such request, or that such response constitutes evidence of any fact thus set forth, inferred, or assumed.

The Defendants' decision to respond to any request, notwithstanding the objectionable nature of any of the requests themselves, is not: (a) an acceptance of, or agreement with, any of the characterizations or purported descriptions of the transactions or events contained in the requests; (b) a concession or admission that the material is relevant to this proceeding; (c) a waiver of the General Objections or of the objections asserted in any specific response; (d) an admission that any such information exists; or (e) an agreement that

responses for similar information will be treated in a similar manner.

GENERAL OBJECTIONS

The Defendants' responses are subject to, qualified by, and limited by the following General Objections, which apply to each specific request as if incorporated and set forth in full in each response.

1. The Defendants object to these requests to the extent they seek material that is not relevant to the subject matter involved in this action or is beyond the scope of what is required to be provided by the Federal Rules of Civil Procedure, the local rules of this Court, or the Orders of the Court in this matter.

2. The Defendants object to these requests to the extent that they are overbroad, oppressive, duplicative, or cumulative.

3. The Defendants object to these requests to the extent that they are vague, ambiguous, fail to specify with reasonable particularity the information sought, or otherwise are incomprehensible.

4. The Defendants object to these requests to the extent that they require the Defendants to make legal conclusions, and/or presuppose legal conclusions or assume the truth of matters that are disputed.

5. The Defendants object to these requests to the extent that they seek admissions regarding information not available to the Defendants and/or that calls for information that is not within the Defendants' possession, custody, or control.

6. The Defendants object to these requests to the extent that they seek information that is protected from disclosure pursuant to the attorney-client privilege, the attorney work product doctrine, executive or

legislative privilege, or otherwise is privileged, protected, or exempt from discovery.

7. In addition to these General Objections, the Defendants also state, where appropriate, other specific objections to individual requests. By setting forth such specific objections, the Defendants neither intend to, nor do, limit or restrict or waive the General Objections, which shall be deemed incorporated in each of the responses to the specific requests that follow, though not specifically referred to or restated therein.

RESPONSES

1. Members of the GRAC considered Maryland voters' political party affiliations when drawing the boundaries of the Sixth Congressional District.

Response 1: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges and that the Request assumes the truth of matters of which Defendants lack knowledge. Subject to and without waiving those objections, Defendants admit only that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' political party affiliations.

Supplemental Response 1: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges. Through counsel, members of the GRAC have indicated their intent to assert legislative and executive privilege as to their decision making and thought processes related to drawing the Proposed Congressional Plan. Subject to and without waiving those objections, the Defendants admit that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the

public that includes voters' political party affiliations, and the Defendants further admit that this voter registration data was available to the GRAC.

Second Supplemental Response 1: Defendants admit that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' political party affiliations, and the Defendants further admit that this voter registration data was available to the GRAC. Defendants are unable to admit or deny the statement as written because it is unclear what is meant by "considered" or "Maryland voters'". Defendants further admit that members of the GRAC, as active participants in Maryland politics, each had a general awareness of party affiliation trends and patterns in Maryland. Defendants deny that any member of the GRAC, as opposed to GRAC staff, drew the boundaries of the Sixth District. After reasonable inquiry and because members of the GRAC do not specifically recall the details of their service on the GRAC after six intervening years, Defendants do not have enough information to admit or deny, and therefore deny, that any specific GRAC member considered any data reflecting any Maryland voter's party affiliation, or Maryland voters' party affiliations generally, when approving the proposed congressional plan.

2. Members of the GRAC considered Maryland voters' voting histories when drawing the boundaries of the Sixth Congressional District.

Response 2: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges and that the Request assumes the truth of matters of which Defendants lack knowledge. Subject to and without waiving those objections, De-

fendants admit only that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' voting histories.

Supplemental Response 2: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges. Through counsel, members of the GRAC have indicated their intent to assert legislative and executive privilege as to their decision making and thought processes related to drawing the Proposed Congressional Plan. Subject to and without waiving those objections, the Defendants admit that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' voting histories, and the Defendants further admit that this voter registration data was available to the GRAC.

Second Supplemental Response 2: Defendants admit that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' voting histories, and the Defendants further admit that this voter registration data was available to the GRAC. Defendants are unable to admit or deny the statement as written because it is unclear what is meant by "considered" or "Maryland voters"". Defendants further admit that members of the GRAC, as active participants in Maryland politics, each had a general awareness of party affiliation trends and patterns in Maryland. Defendants deny that any member of the GRAC, as opposed to GRAC staff, drew the boundaries of the Sixth District. Defendants admit that Richard Stewart recalls reviewing voter turnout data in relation to the location of polling places. After reasonable inquiry and because

members of the GRAC do not specifically recall the details of their service on the GRAC after six intervening years, Defendants do not have enough information to admit or deny, and therefore deny, that any specific GRAC member considered any data reflecting Maryland voter's voting histories, or Maryland voters' voting histories generally, when approving the proposed congressional plan.

3. The Governor considered Maryland voters' political party affiliations when approving the Proposed Congressional Plan, introducing the Proposed Congressional Plan to the Maryland General Assembly, and/or signing the Proposed Congressional Plan into law.

Response 3: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges and that the Request assumes the truth of matters of which Defendants lack knowledge. Subject to and without waiving those objections, Defendants admit only that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' political party affiliations.

Supplemental Response 3: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges. Through counsel, Governor O'Malley has indicated his intent to assert legislative and executive privilege as to his decision making and thought processes related to introducing the Proposed Congressional Plan to the Maryland General Assembly, and/or signing the Proposed Congressional Plan into law. Subject to and without waiving those objections, the Defendants admit that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that in-

cludes voters' political party affiliations, and the Defendants further admit that this voter registration data was available to the GRAC, which submitted the Proposed Congressional Plan to Governor O'Malley for his approval.

Second Supplemental Response 3: Defendants are unable to admit or deny the statement as written because it is unclear what is meant by "considered" or "Maryland voters'". Defendants admit that Governor O'Malley, as the result of his long political career, possesses an intuitive sense of political party affiliation patterns as they relate to Maryland geography. Defendants further admit that Governor O'Malley's involvement in the 2011 congressional redistricting process included asking his staff about particular voter registration data in relation to a particular geographic area, at the precinct level or above, if the need arose to consider that data for purposes of evaluating the Proposed Congressional Plan. Defendants admit that Governor O'Malley considered the information already known to him and the specific information provided to him orally by staff in approving the Proposed Congressional Plan. Defendants deny that Governor O'Malley considered or asked for individual voter registration information or examined party registration data in written or visual formats for the purposes of evaluating the Proposed Congressional Plan.

4. The Governor considered Maryland voters' voting histories when approving the Proposed Congressional Plan, introducing the Proposed Congressional Plan to the Maryland General Assembly, and/or signing the Proposed Congressional Plan into law.

Response 4: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges and that the Request assumes the

truth of matters of which Defendants lack knowledge. Subject to and without waiving those objections, Defendants admit only that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' voting histories.

Supplemental Response 4: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges. Through counsel, Governor O'Malley has indicated his intent to assert legislative and executive privilege as to his decision making and thought processes related to introducing the Proposed Congressional Plan to the Maryland General Assembly, and/or signing the Proposed Congressional Plan into law. Subject to and without waiving those objections, the Defendants admit that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' voting histories, and the Defendants further admit that this voter registration data was available to the GRAC, which submitted the Proposed Congressional Plan to Governor O'Malley for his approval.

Second Supplemental Response 4: Defendants are unable to admit or deny the statement as written because it is unclear what is meant by "considered," "Maryland voters', or "voting history." Defendants admit that Governor O'Malley, as the result of his long political career, possesses an intuitive sense of voter turnout patterns as they relate to Maryland geography. Defendants admit that Governor O'Malley considered the information already known to him and any specific information provided to him orally by staff in approving the Proposed Congressional Plan. Defendants deny that Governor O'Malley considered or asked for individual voter turnout information or examined

turnout data in written or visual formats for the purposes of evaluating the Proposed Congressional Plan.

5. Members of the Maryland General Assembly considered Maryland voters' political party affiliations when enacting the Proposed Congressional Plan.

Response 5: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative privilege and that the Request assumes the truth of matters of which Defendants lack knowledge. Subject to and without waiving those objections, Defendants admit only that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' political party affiliations.

Supplemental Response 5: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative privilege. Through counsel, members of the Maryland General Assembly involved in drafting the Proposed Congressional Plan have indicated their intent to assert legislative privilege as to their decision making and thought processes related to the Proposed Congressional Plan. Further, it would be unduly burdensome for the Defendants to make inquiries of all 188 members of the General Assembly who voted for the Proposed Congressional Plan, and the subjective intent of those legislators in voting for the Plan is irrelevant to this case. Subject to and without waiving their objections, the Defendants admit that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' political party affiliations. Defendants further admit that the articles attributing statements to individual Members of the General Assembly identified in paragraphs 40-50 of the Joint Stipulations (ECF

No. 104) are authentic, that videotapes of individual Members of the General Assembly identified in paragraphs 63-65 and 70 of the Joint Stipulations (ECF No. 104) are authentic, that the audio recordings of the Senate Floor proceedings on SB1 are available at:

http://mgaleg.maryland.gov/webmga/frmLegislation.aspx?id=2011s1_senate_audio&stab=02&pid=legisnlist&tab=subject3&ys=2011s1,

that audio recordings of the House Floor proceedings on SB1 are available at:

http://mgaleg.maryland.gov/webmga/frmLegislation.aspx?id=2011s1_house_audio&stab=02&pid=legisnlist&tab=subject3&ys=2011s1,

and that the audio file of the joint committee hearing on SB1, produced to the plaintiffs as Exhibit 8 to defendants' proposed joint stipulations, is authentic.

Second Supplemental Response 5: Defendants, after reasonable inquiry, do not have enough information to admit or deny the statement as written. The Defendants admit that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' political party affiliations. Defendants further admit that the articles attributing statements to individual Members of the General Assembly identified in paragraphs 40-50 of the Joint Stipulations (ECF No. 104) are authentic, that videotapes of individual Members of the General Assembly identified in paragraphs 63-65 and 70 of the Joint Stipulations (ECF No. 104) are authentic, that the audio recordings of the Senate Floor proceedings on SB1 are available at:

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and that the audio file of the joint committee hearing on SB1, produced to the plaintiffs as Exhibit 8 to defendants' proposed joint stipulations, is authentic.

6. Members of the Maryland General Assembly considered Maryland voters' voting histories when enacting the Proposed Congressional Plan.

Response 6: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative privilege and that the Request assumes the truth of matters of which Defendants lack knowledge. Subject to and without waiving those objections, Defendants admit only that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' voting histories.

Supplemental Response 6: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative privilege. Through counsel, members of the Maryland General Assembly involved in drafting the Proposed Congressional Plan have indicated their intent to assert legislative privilege as to their decision making and thought processes related to the Proposed Congressional Plan. Further, it would be unduly burdensome for the Defendants to make inquiries of all 188 members of the General Assembly who voted for the Proposed Congressional Plan, and the subjective intent of those legislators in voting for the Plan is irrelevant to this case. Subject to and without waiving those objections, the Defendants admit that the Mary-

land State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' political party affiliations. Defendants further admit that the articles attributing statements to individual Members of the General Assembly identified in paragraphs 40-50 of the Joint Stipulations (ECF No. 104) are authentic, that videotapes of individual Members of the General Assembly identified in paragraphs 63-65 and 70 of the Joint Stipulations (ECF No. 104) are authentic, that the audio recordings of the Senate Floor proceedings on SB1 are available at: http://mgaleg.maryland.gov/webmga/frmLegislation.aspx?id=2011s1_senate_audio&stab=02&pid=legisnlist&tab=subject3&ys=2011s1,

that audio recordings of the House Floor proceedings on SB1 are available at:

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and that the audio file of the joint committee hearing on SB1, produced to the plaintiffs as Exhibit 8 to defendants' proposed joint stipulations, is authentic.

Second Supplemental Response 6: Defendants, after reasonable inquiry, do not have enough information to admit or deny the statement as written. Defendants admit that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' political party affiliations. Defendants further admit that the articles attributing statements to individual Members of the General Assembly identified in paragraphs 40-50 of the Joint Stipulations (ECF No. 104) are authentic, that videotapes of individual Members of the General Assembly identified in paragraphs 63-65 and 70 of the Joint Stipulations (ECF No. 104) are authentic, that

the audio recordings of the Senate Floor proceedings on SB1 are available at:

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and that the audio file of the joint committee hearing on SB1, produced to the plaintiffs as Exhibit 8 to defendants' proposed joint stipulations, is authentic.

7. A motivation of members of the GRAC in drafting the Proposed Congressional Plan was to make it more likely that a Democrat would be elected as representative from the Sixth Congressional District.

RESPONSE 7: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges and that the Request assumes the truth of matters of which Defendants lack knowledge. Subject to and without waiving those objections, Defendants admit only that a Democrat has been elected as representative from the Sixth Congressional District in 2012, 2014, and 2016.

Supplemental Response 7: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges. Through counsel, members of the GRAC have indicated their intent to assert legislative and executive privilege as to their decision making and thought processes related to drawing the Proposed Congressional Plan. Subject to and without waiving those objections, the Defendants admit that a

Democrat has been elected as representative from the Sixth Congressional District in 2012, 2014, and 2016.

Second Supplemental Response 7: Defendants deny that any member of the GRAC personally drafted a Proposed Congressional Plan. Defendants deny that it was a motivation of Senate President Miller in approving the plan to make it more likely that a Democrat would be elected as representative from the Sixth Congressional District. Defendants do not have enough information to admit, and therefore deny, that a motivation of Speaker Michael Busch, Richard Stewart or Jeanne Hitchcock in approving the Proposed Congressional Plan was to make it more likely that a Democrat would be elected as representative from the Sixth District.

8. A motivation of the Governor in introducing the Proposed Congressional Plan to the Maryland General Assembly and in signing it into law was to make it more likely that a Democrat would be elected as representative from the Sixth Congressional District.

RESPONSE 8: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges and that the Request assumes the truth of matters of which Defendants lack knowledge. Subject to and without waiving those objections, Defendants admit only that a Democrat has been elected as representative from the Sixth Congressional District in 2012, 2014, and 2016.

Supplemental Response 8: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges. Through counsel, Governor O'Malley has indicated his intent to assert legislative and executive privilege as to his decision making

and thought processes related to introducing the Proposed Congressional Plan to the General Assembly and signing it into law. Subject to and without waiving those objections, the Defendants admit that a Democrat has been elected as representative from the Sixth Congressional District in 2012, 2014, and 2016.

Second Supplemental Response 8: Admitted.

9. A motivation of members of the Maryland General Assembly in enacting the Proposed Congressional Plan was to make it more likely that a Democrat would be elected as representative from the Sixth Congressional District.

RESPONSE 9: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative privilege and that the Request assumes the truth of matters of which Defendants lack knowledge. Subject to and without waiving those objections, Defendants admit only that a Democrat has been elected as representative from the Sixth Congressional District in 2012, 2014, and 2016.

Supplemental Response 9: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative privilege. Through counsel, members of the Maryland General Assembly involved in drafting the Proposed Congressional Plan have indicated their intent to assert legislative privilege as to their decision making and thought processes related to the Proposed Congressional Plan. Further, it would be unduly burdensome for the Defendants to make inquiries of all 188 members of the General Assembly who voted for the Proposed Congressional Plan, and the subjective intent of those legislators in voting for the Plan is irrelevant to this case. Subject to and without waiving

those objections, Defendants admit that the articles attributing statements to individual Members of the General Assembly identified in paragraphs 40-50 of the Joint Stipulations (ECF No. 104) are authentic, that videotapes of individual Members of the General Assembly identified in paragraphs 63-65 and 70 of the Joint Stipulations (ECF No. 104) are authentic, that the audio recordings of the Senate Floor proceedings on SB1 are available at:

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that audio recordings of the House Floor proceedings on SB1 are available at:

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and that the audio file of the joint committee hearing on SB1, produced to the plaintiffs as Exhibit 8 to defendants' proposed joint stipulations, is authentic. Defendants further admit that a Democrat has been elected as representative from the Sixth Congressional District in 2012, 2014, and 2016.

Second Supplemental Response 9: Defendants, after reasonable inquiry, do not have enough information to admit or deny the statement as written. Defendants admit that the articles attributing statements to individual Members of the General Assembly identified in paragraphs 40-50 of the Joint Stipulations (ECF No. 104) are authentic, that videotapes of individual Members of the General Assembly identified in paragraphs 63-65 and 70 of the Joint Stipulations (ECF No. 104) are authentic, that the audio recordings of the Senate Floor proceedings on SB1 are available at:

http://mgaleg.maryland.gov/webmga/frmLegislation.aspx?id=2011s1_senate_audio&stab=02&pid=legisnlist&tab=subject3&ys=2011s1, that audio recordings of the House Floor proceedings on SB1 are available at: http://mgaleg.maryland.gov/webmga/frmLegislation.aspx?id=2011s1_house_audio&stab=02&pid=legisnlist&tab=subject3&ys=2011s1, and that the audio file of the joint committee hearing on SB1, produced to the plaintiffs as Exhibit 8 to defendants' proposed joint stipulations, is authentic. Defendants further admit that a Democrat has been elected as representative from the Sixth Congressional District in 2012, 2014, and 2016.

10. In her presentation to the House and Senate Democratic Caucuses about the proposed plan on October 3, 2011, GRAC Chair Jeanne Hitchcock stated that the GRAC's proposed map would make it more likely that a Democrat would be elected as the representative from the Sixth Congressional District.

RESPONSE 10: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative privilege and that the Request assumes the truth of matters of which Defendants lack knowledge. Subject to and without waiving those objections, Defendants admit only that GRAC Chair Jeanne Hitchcock briefed the House and Senate Democratic Caucuses about the proposed plan on October 3, 2011.

SUPPLEMENTAL RESPONSE 10: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative privilege. The Defendants admit that GRAC Chair Jeanne Hitchcock briefed the House and Senate Democratic Caucuses about the proposed plan

on October 3, 2011. Through counsel, former GRAC Chair Jeanne Hitchcock has indicated her intent to assert legislative privilege as to her statements made during these briefings. Without waiving that privilege as to any particular statement that she may have made at briefings that occurred over five years ago, Ms. Hitchcock does not believe that she made the statement attributed to her in this request for admission.

SECOND SUPPLEMENTAL RESPONSE 10: Notwithstanding their general objections, the Defendants admit that GRAC Chair Jeanne Hitchcock briefed the House and Senate Democratic Caucuses about the proposed plan on October 3, 2011. Because Ms. Hitchcock cannot recall any particular statement that she may have made at briefings that occurred over five years ago and does not believe that she made the statement attributed to her in this request for admission, Defendants do not have enough information to admit, and therefore deny that Ms. Hitchcock made this statement.

BRIAN E. FROSH
Attorney General of Maryland
___/s/__Jennifer L. Katz_____
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Dated: June 2, 2017 Attorneys for Defendants

Second Declaration of Yaakov Weissmann

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

O. JOHN BENISEK, et al ,

Plaintiffs,

v.

LINDA H. LAMONE., et al.,

Defendants.

Case No. 13-cv-3233

SECOND DECLARATION OF YAAKOV WEISSMANN

I, Yaakov Weissmann, under penalty of perjury, declare and state:

1. I, Yaakov "Jake" Weissmann, am over the age of eighteen and competent to testify on the matters stated below.

2. I have reviewed the July 10, 2017 Declaration of Professor Michael McDonald filed in this case as ECF 191-5. In that document, Professor McDonald draws conclusions from the dates of files produced to plaintiffs from my laptop and from the file names assigned to the files.

3. The dates of files produced to plaintiffs are not reflective of the date of last substantive change to the map. We would regularly send plans to the Department of Planning, the Department of Legislative Services, or others to obtain technical input. Cleaned up maps (correcting missing medians for example) would be uploaded in place of the old maps after the maps were received from these other State entities.

4. Other than the map described in paragraph 8 of my June 29, 2017 declaration, I do not remember receiving additional draft maps from the Congressional delegation or NCEC. The file names "Congressional Option 1" and "Congressional Option 2" were chosen by me to mark these draft maps as the main options to be considered by decisionmakers for the congressional plan. We were contemporaneously also drafting maps related to legislative districts, and I used these names to indicate that these were maps for the statewide congressional districts. I do not recall what particular factors led me to choose these names for "Congressional Option 1" and "Congressional Option 2" compared with "111012 Group", "111012 Group2", and "111012 Group Zeroed Out," other file names mentioned by Professor McDonald.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

8/1/17 /s/

Date Yaakov Weissmann

U.S. Census Bureau on Race

Race

About

The U.S. Census Bureau must adhere to the 1997 Office of Management and Budget (OMB) standards on race and ethnicity which guide the Census Bureau in classifying written responses to the race question:

White—A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

Black or African American—A person having origins in any of the Black racial groups of Africa.

American Indian or Alaska Native—A person having origins in any of the original peoples of North and South America (including Central America) and who maintains tribal affiliation or community attachment.

Asian—A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

Native Hawaiian or Other Pacific Islander—A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

The 1997 OMB standards permit the reporting of more than one race. An individual's response to the race question is based upon self-identification.

The Census Bureau does not tell individuals which boxes to mark or what heritage to write in. For the first time in Census 2000, individuals were presented with the option to self-identify with more than one race

and this continued with the 2010 Census. People who identify with more than one race may choose to provide multiple races in response to the race question. For example, if a respondent identifies as "Asian" and "White," they may respond to the question on race by checking the appropriate boxes that describe their racial identities and/or writing in these identities on the spaces provided.

What is Race?

The data on race were derived from answers to the question on race that was asked of individuals in the United States. The Census Bureau collects racial data in accordance with guidelines provided by the U.S. Office of Management and Budget (OMB), and these data are based on self-identification.

The racial categories included in the census questionnaire generally reflect a social definition of race recognized in this country and not an attempt to define race biologically, anthropologically, or genetically. In addition, it is recognized that the categories of the race item include racial and national origin or sociocultural groups. People may choose to report more than one race to indicate their racial mixture, such as "American Indian" and "White." People who identify their origin as Hispanic, Latino, or Spanish may be of any race.

OMB requires five minimum categories: White, Black or African American, American Indian or Alaska Native, Asian, and Native Hawaiian or Other Pacific Islander.

Reasons for Collecting Information on Race

Information for race is required for many Federal programs and is critical in making policy decisions, particularly for civil rights. States use these data to meet legislative redistricting principles. Race data also

are used to promote equal employment opportunities and to assess racial disparities in health and environmental risks.

Contact Us

For assistance, please contact the Census Call Center at 1-800-923-8282 (toll free) or visit ask.census.gov for further information.

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No. 18-726

In The
Supreme Court of the United States

LINDA H. LAMONE, *et al.*,

Appellants,

v.

O. JOHN BENISEK, *et al.*,

Appellees.

On Appeal From The United States District Court
For The District Of Maryland

JOINT APPENDIX
VOLUME III OF V (JA512 – JA879)

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Appeal Docketed Dec. 6, 2018
Jurisdiction Postponed Jan. 4, 2019

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

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Sharon Strine
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Frederick County

Plaintiffs,

vs.

David J. McManus, Jr.,* **et al.,**
in their official capacities,

Defendants.

Case No. 13-cv-3233

Three-Judge Court

SECOND AMENDED COMPLAINT

* By operation of Federal Rule of Civil Procedure 25(d), David J. McManus, Jr., in his official capacity as Chair of the Maryland State Board of Elections, is automatically substituted for defendant Bobby S. Mack.

Plaintiffs Stephen M. Shapiro, Maria A. Pycha, O. John Benisek, Edmund Cueman, Jeremiah DeWolf, Charles W. Eyler, Jr., Kat O'Connor, Alonnie L. Ropp, and Sharon Strine, for their complaint against defendants Linda H. Lamone and David J. McManus, Jr., in their official capacities, allege by and through their attorneys, as follows.

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INTRODUCTION

1. This is a constitutional challenge to Maryland's 2011 congressional redistricting plan (the "Plan," attached as Exhibit A), and specifically to the "cracking" of Maryland's 6th Congressional District, which was purposefully and successfully flipped from Republican to Democratic control by strategically moving the district's lines by reason of citizens' voting records and known party affiliations.

2. Voters in Maryland and throughout the Nation ought to be able to organize politically, to support political campaigns, to register with their preferred political parties, and to vote for their preferred candidates without fear that—if they succeed in electing the public officials of their choice—they will be retaliated against by the legislature. Yet that is just what the Maryland legislature did when it enacted the Plan in 2011.

3. In 2010, registered Republican voters—comprising 32% of the party-affiliated registered voters in Maryland—were able to elect two of the eight members of the House of Representatives from Maryland, those from the 1st and the 6th Congressional Districts. But in 2011, the Democratic-controlled Maryland legislature violated the First Amendment and Article I of the Federal Constitution when it used data reflecting the political party memberships, party registrations, and voting histories of Republican and Democratic voters in the 6th and surrounding districts to gerrymander the 6th District for the purpose and with the effect of enhancing the effectiveness of votes cast in favor of Democratic candidates and diluting the effectiveness of votes cast in favor Republican candidates in the general election for a representative from the 6th District.

4. The legislature gerrymandered the boundaries of the 6th District to remove a net total of over 65,000 registered Republican voters from the district (and disburse them among surrounding districts with large Democratic majorities) and add a net total of over 30,000 Democratic voters to the district. The purpose and the effect of this cracking of the

6th District was to nullify the ability of Republican voters in the former 6th District to elect a Republican of their choice to Congress and to the prevent them from reelecting Representative Roscoe Bartlett, the 20-year Republican incumbent from the 6th District, in the 2012 general election. That purpose was achieved: In 2012 congressional election, the 6th District was flipped by the Plan from Republican to Democratic control. The district remained under Democratic control after the 2014 congressional election and is nearly certain to remain so in all future congressional elections under the Plan.

5. The Plan is widely regarded as one of the worst partisan gerrymanders in American history. Earlier in this case, Judge James K. Bredar of this Court acknowledged that "[i]t may well be that the 4th, 6th, 7th, and 8th congressional districts . . . fail to provide 'fair and effective representation for all citizens.'" *Benisek v. Mack*, 11 F. Supp. 3d 516, 526 (D. Md.) *aff'd*, 584 F. App'x 140 (4th Cir. 2014) *rev'd sub nom. Shapiro v. McManus*, 136 S. Ct. 450 (2015). And in separate litigation challenging the Plan on different grounds, Judge Paul Niemeyer observed that "[m]any obvious communities of interest are divided" and the 3rd District is so contorted that it is "reminiscent of a broken-winged pterodactyl, lying prostrate across the center of the state." *Fletcher v. Lamone*, 831 F. Supp. 2d 887, 902 n. 5 (D. Md. 2011) *summarily aff'd*, 133 S. Ct. 29 (2012).

6. The Plan is manifestly unconstitutional. The drafters of the Plan focused predominantly on the voting histories and political-party affiliations of the citizens of the State in deciding how to draw district lines. And it did so with the clear purpose and effect of diluting the votes of Republican voters and preventing them from electing their preferred representatives in Congress. In particular, the legislature succeeded in "cracking" the formerly Republican 6th District, where a Republican bloc of voters was divided by the Plan among the 1st, 6th, 7th and 8th Districts, giving the Democrats a majority in the new 6th District and allowing them to flip the seat to Democratic control.

7. A State violates the First Amendment when it "enacts a law that has the purpose and effect of subjecting a group of voters or their party to disfavored treatment by reason of their views." *Vieth v. Jubelirer*, 541 U.S. 267, 314 (2004) (Kennedy, J., concurring). A three-part analysis demonstrates that Maryland's 2011 partisan gerrymander violates the First Amendment in just this way.

a. *First*, the Maryland legislature expressly and deliberately considered Republican voters' protected First Amendment conduct, including their voting histories and political party affiliations, when it redrew the lines of the 6th Congressional District; and it did so with an intent to disfavor and punish those voters by reason of their constitutionally protected conduct.

b. *Second*, the Plan, in actual effect, has burdened Republican voters in the former 6th Congressional District. Republican voters in the former 6th District would have been able to elect a Republican representative in 2012 and 2014, but for the cracking of the district under the Plan. In other words, the vote dilution resulting from the cracking of the 6th District achieved its goal of preventing Republicans in the former 6th District from continuing to elect a Republican representative to the United States House of Representatives, as they had in the prior ten congressional elections.

c. *Finally*, the State cannot justify the cracking of the 6th District by reference to geography or compliance with legitimate redistricting criteria.

8. The injury inflicted on Republican voters in this case is, moreover, clear and perceptible. Prior to enactment of the Plan, Republican voters comprised a sufficiently great share of the 6th District that they were reliably able to elect a Republican representative. In the 70 years between January 1943 and January 2013, the district was represented in Congress by members of the Republican Party in four years out of every five, including for the entire two decades between 1993 and 2013. But after the Plan cracked the

6th District in 2011, Republicans kept *in* the 6th District and those moved *out* of the 6th District were no longer able to elect their preferred representative to the House—precisely as the mapmakers, legislators, and governor intended.

9. Maryland's 2011 redistricting plan therefore violates the First Amendment. The legislature adopted the contorted districts at issue here—and the shapes of the 1st, 6th, 7th, and 8th Districts in particular—with an eye to citizens' voting histories and party affiliations and with the purpose of punishing Republicans and preventing them from electing a Republican representative from the 6th District. The legislature succeeded in its efforts. And there is no plausible justification for the Plan's cartographic convolutions to save it from invalidation.

10. The Plan accordingly should be declared a violation of the First Amendment and of Article I, Sections 2 and 4 of the Constitution; the defendants should be enjoined from enforcing the Plan at any stage of any future election; and the legislature should be ordered to enact a new and valid plan within a reasonable time.

JURISDICTION AND VENUE

11. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343(a), and 2284(a) and 42 U.S.C. § 1983. It has the authority to issue declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202 and its general equitable powers.

12. Venue is proper in this district under 28 U.S.C. § 1391(b) because the defendants are domiciled in this district and because a substantial part of the events or omissions giving rise to the claims asserted occurred in this district.

THE PARTIES

A. The plaintiffs

13. Plaintiffs are qualified, registered voters in the State of Maryland. Together with other supporters of the Republican Party, plaintiffs have been harmed by the Plan's

unlawful partisan gerrymander because it burdens citizens by reason of their voting history and political party affiliation.

14. Stephen M. Shapiro is a citizen of the United States and a resident of and registered voter in Maryland. He was a registered Democrat but occasionally voted for Republican candidates prior to 2011. Before enactment of the Plan, Mr. Shapiro's residence was in the 8th Congressional District. Following enactment of the Plan, his residence remains in the 8th Congressional District. He has since continued occasionally to support Republican candidates and policies and will continue doing so from time to time.

15. Maria A. Pycha is a citizen of the United States and a resident of and registered voter in Maryland. She was a registered Republican and voted for Republican candidates prior to 2011. She has since continued to support Republican candidates and policies and will continue voting for Republican candidates for elective office. Ms. Pycha is the Vice Chair of the Baltimore County Republican Central Committee and served as the finance director for the campaign committee of the 2014 Republican nominee for United States House of Representatives from the 6th District, Dan Bongino.

16. O. John Benisek is a citizen of the United States and a resident of and registered voter in Maryland. Before enactment of the Plan, Mr. Benisek's residence was in the 6th Congressional District. Following enactment of the Plan, his residence remains in the 6th Congressional District. He was a register[illegible] Republican and voted for Republican candidates prior to 2011. He has continued to support Republican candidates and policies and will continue voting for Republican candidates for elective office.

17. Edmund Cueman is a citizen of the United States and a resident of and registered voter in Maryland. Before enactment of the Plan, Mr. Cueman's residence was in the 6th Congressional District. As a result of the Plan, his residence is now in the 8th Congressional District. He was a registered Republican and voted for Republican can-

didates prior to 2011. He has continued to support Republican candidates and policies and will continue voting for Republican candidates for elective office.

18. Jeremiah DeWolf is a citizen of the United States and a resident of and registered voter in Maryland. Before enactment of the Plan, Mr. DeWolf's residence was in the 6th Congressional District. Following enactment of the Plan, his residence remains in the 6th Congressional District. He was a registered Republican and voted for Republican candidates prior to 2011. He has continued to support Republican candidates and policies and will continue voting for Republican candidates for elective office. Mr. DeWolf is a member of the Washington County Republican Central Committee.

19. Charles W. Eyler, Jr., is a citizen of the United States and a resident of and registered voter in Maryland. Before enactment of the Plan, Mr. Eyler's residence was in the 6th Congressional District. As a result of the Plan, his residence is now in the 8th Congressional District. He was a registered Republican and voted for Republican candidates prior to 2011. He has continued to support Republican candidates and policies and will continue voting for Republican candidates for elective office.

20. Kat O'Connor is a citizen of the United States and a resident of and registered voter in Maryland. Before enactment of the Plan, Ms. O'Connor's residence was in the 6th Congressional District. Following enactment of the Plan, her residence remains in the 6th District. She was a registered Republican and voted for Republican candidates prior to 2011. She has continued to support Republican candidates and policies and will continue voting for Republican candidates for elective office. Ms. O'Connor serves as the Communications Chair for the Montgomery County Republican Central Committee.

21. Alonnie L. Ropp is a citizen of the United States and a resident of and registered voter in Maryland. Before enactment of the Plan, Ms. Ropp's residence was in the 6th Congressional District. As a result of the Plan, her residence is now in the 8th

Congressional District. She was a registered Republican and voted for Republican candidates prior to 2011. She has continued to support Republican candidates and policies and will continue voting for Republican candidates for elective office. Ms. Ropp formerly served as the Chair for the Frederick County Republican Central Committee.

22. Sharon Strine is a citizen of the United States and a resident of and registered voter in Maryland. Before enactment of the Plan, Mrs. Strine's residence was in the 6th Congressional District. As a result of the Plan, her residence is now in the 8th Congressional District. She was a registered Republican and voted for Republican candidates prior to 2011. She has continued to support Republican candidates and policies and will continue voting for Republican candidates for elective office. Mrs. Strine served as the campaign manager for the 2014 Republican nominee for United States House of Representatives from the 6th District, Dan Bongino.

B. The defendants

23. David J. McManus, Jr., is the chairman of the Maryland State Board of Elections, acting in his official capacity.

24. Linda H. Lamone is the Maryland State Administrator of Elections, acting in her official capacity.

25. The mission of the Maryland State Board of Elections is to ensure compliance with the requirements of Maryland and federal election laws by all persons involved in the election process. It bears responsibility for administering federal elections under the Plan.

CONCEPTUAL AND LEGAL FRAMEWORK

A. What partisan gerrymandering does

26. The crux of every partisan gerrymander is the dominant party's effort to dilute the effectiveness of the votes in favor of the disfavored party. *See generally* Nicholas O. Stephanopoulos & Eric M. McGhee, *Partisan Gerrymandering and the Efficiency Gap*,

82 U. Chi. L. Rev. 831, 834 (2015). This complaint refers to the political party that controls redistricting as the "dominant party" and to the party whose votes are intentionally diluted through redistricting as the "disfavored party."

27. The goal of a partisan gerrymander is to punish the disfavored party's supporters by reason of their support for the disfavored party, with the specific aim of preventing those supporters from electing their preferred elected officials. According to the Supreme Court, the goal is, in other words, "to subordinate adherents of one political party and entrench a rival party in power." *Ariz. State Legislature v. Ariz. Indep. Redistricting Comm'n*, 135 S. Ct. 2652, 2658 (2015).

28. This end is achieved by drawing district lines so that the dominant party wins a large number of seats by narrow margins and the disfavored party wins a small number of seats by wide margins. These two strategies are often called "cracking" (splitting a party's supporters between districts so they fall short of a majority in each one) and "packing" (stuffing remaining supporters in a small number of districts that they win by wide margins). See generally *Johnson v. De Grandy*, 512 U.S. 997, 1007 (1994) (describing cracking and packing); Stephanopoulos & McGhee, *supra*, at 851 (same). All partisan gerrymanders work through some combination of packing and cracking. The net result is to dilute the efficiency and effect of the votes of the disfavored party's supporters.

29. Although partisan gerrymandering is nothing new (*see, e.g.*, Elmer C. Griffith, *The Rise and Development of the Gerrymander* (1907)), it has never before in the Nation's history so systemically undermined the Constitution's promise of representative democracy. *See generally* Thomas E. Mann & Norman J. Ornstein, *It's Even Worse Than It Looks: How The American Constitutional System Collided with the New Politics of Extremism* (2012). As a result of both increasing partisanship and more sophisticated voter data collection and analysis, map-drawers in recent decades have been able to create

redistricting plans in ways that crack and pack with unprecedented efficiency and accuracy. *See generally* Stephanopoulos & McGhee, *supra*, at 876; Samuel S.-H. Wang, *Three Tests for Practical Evaluation of Partisan Gerrymandering* 9-12 (Dec. 2015), perma.cc/W52P-MQG3 (forthcoming in the Stanford Law Review, vol. 68).

30. Severe gerrymanders are self-reinforcing and cannot be corrected through the political process. Incumbent state legislators have no incentive to fix an unfair gerrymander, which by definition benefits them and their colleagues in the State's federal delegation; and adherents of the disfavored party are unable to replace the entrenched legislators because their votes have been unfairly diluted. More broadly, gerrymandering has come to be seen as a national "war" in which singular state legislatures are unwilling to "disarm" unilaterally. *See, e.g.*, Jamie Raskin & Rob Richie, *Fair representation for all*, The Balt. Sun (Nov. 7, 2011), perma.cc/QLP5-6QP8.

B. Why partisan gerrymandering violates the Constitution

31. A successful partisan gerrymander of congressional districts violates the Constitution in two ways.

32. *First*, it violates the First Amendment when it burdens the supporters of a political party by reason of their protected First Amendment conduct—that is, by reason of the expression of their political views, the casting of their votes, and their affiliations with political parties of their choice. *See Vieth*, 541 U.S. at 314 (Kennedy, J., concurring).

33. That straightforward conclusion finds repeated support in the Supreme Court's precedents. If a burden were imposed on citizens "because of [their] constitutionally protected speech or associations," the Court has said, "[their] exercise of those freedoms would in effect be penalized and inhibited." *Elrod v. Burns*, 427 U.S. 347, 359 (1976). On that theory, "[a] burden that falls unequally on [particular] political parties, . . . impinges,

by its very nature, on associational choices protected by the First Amendment." *Anderson v. Celebrezze*, 460 U.S. 780, 793 (1983).

34. Thus, a redistricting map can violate the First Amendment when it "has the purpose and effect of burdening a group of voters' representational rights." *Vieth*, 541 U.S. at 314 (Kennedy, J., concurring). "If a court were to find that a State did impose burdens and restrictions on groups or persons by reason of their views, there would likely be a First Amendment violation, unless the State shows some compelling interest." *Id.*

35. *Second*, and for the same reasons, a successful partisan gerrymander violates the representational rights protected by Article 1, Sections 2 and 4. Although Section 4, also known as the Elections Clause, "grants to the States 'broad power' to prescribe the procedural mechanisms for holding congressional elections," the Supreme Court has admonished that it is not "a source of power to dictate electoral outcomes, to favor or disfavor a class of candidates, or to evade important constitutional restraints." *Cook v. Gralike*, 531 U.S. 510, 523 (2001) (citing *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779, 833-834 (1995); *Tashjian v. Republican Party of Conn.*, 479 U.S. 208, 217 (1986)).

36. As States undertake their duties under Article I of the Constitution, therefore, "no classification of the people can be made to advance the state legislature's preference for one class [of voters] to the detriment of another." *Anne Arundel Cty. Republican Cent. Comm.* v. *State Admin. Bd. of Election Laws*, 781 F. Supp. 394, 402 (D. Md. 1991) (Niemeyer, J., dissenting). That is because Article I, like the First Amendment, implies "[a] prohibition . . . against classifications that are based on how the voters voted and can be expected to vote, for the purpose of steering the outcome of an election." *Id.* at 403.

C. The burden imposed by a partisan gerrymander

37. The gerrymander in this case clearly and concretely "burdens the representational rights of the complaining party's voters for reasons of ideology, beliefs, or political

association." *Vieth*, 541 U.S. at 315 (Kennedy, J., concurring). Justice Kennedy found the claims in *Vieth* insufficient because the plaintiffs in that case failed to provide a "standard by which to measure the burden . . . imposed on their representational rights" on a statewide basis. *Id.* at 313. *Cf. LULAC v. Perry*, 548 U.S. 399, 404 (2006) (rejecting a redistricting claim based on a "sole-motivation theory," where the plaintiffs "explicitly disavow[ed]" a need to "show a burden, as measured by a reliable standard, on the complainants' representational rights").

38. The same cannot be said here. Maryland legislators and their mapmakers set out to crack the 6th District and thereby to prevent voters in that district from electing a Republican representative to Congress—*and they succeeded in doing so*. Maryland legislators and their mapmakers sorted many Republican voters in the pre-2011 6th Congressional District into the new 8th and 7th Congressional Districts, leaving other Republican voters in the new 6th Congressional District, all by reason of those voters' political party affiliations and voting histories. They did so with a purpose and actual effect of preventing those voters (both those moved out of and those left in the district) from electing their preferred representative to Congress.

FACTUAL ALLEGATIONS

A. The Plan was drafted in secret by known partisans and passed by the legislature and signed by Governor O'Malley with no Republican input and no opportunity for public review

39. The Plan was drawn up by the Governor's Redistricting Advisory Committee (the GRAC) and enacted into law without any meaningful Republican input.

40. The Plan was passed against the backdrop of pervasive gerrymandering throughout Maryland's recent history. In fact, the Democratic Party has maintained majority control over the House of Delegates and State Senate since 1920, and to a degree far greater than the party's statewide share of votes would predict.

41. The state legislature has been dogged by allegations of partisan gerrymandering for the past 20 years, in particular. In 1992, Maryland's highest court called the legislative redistricting plan "perilously close" to violating the state's constitution. *See Legislative Redistricting Cases*, 629 A.2d 646, 666 (Md. 1993).

42. In 2002, the Maryland Court of Appeals struck down the state legislative redistricting map for violating the "due regard" provision of the Maryland Constitution and instituted its own districting plan. *See In re Legislative Redistricting*, 805 A.2d 292, 328 (Md. 2002). The current legislative map was also drawn up by GRAC in 2011 and has faced persistent litigation since it was implemented. *See In re 2012 Legislative Districting of the State*, 80 A.3d 1073 (Md. 2013).

43. In early 2011, Governor O'Malley, a Democrat, appointed the five members of the GRAC, stacking it with reliably partisan confidantes:

a. Committee Chair Jeanne Hitchcock, who was Governor O'Malley's Secretary of Appointments and former Deputy Mayor of Baltimore;

b. Senate President Thomas V. Mike Miller, Jr., a Democrat;

c. Maryland House of Delegates Speaker Michael E. Busch, a Democrat;

d. Delegate James J. King, a former one-term member of the Maryland House of Delegates who served as a Republican but was chosen without input from Republican leadership; and

e. Richard Stewart, a private business owner who chaired Governor O'Malley's 2010 re-election campaign in Prince George's County.

44. The GRAC was tasked with drafting a recommended plan for the State's legislative and congressional redistricting in light of the 2010 census results. Although the GRAC held public hearings around the State in the summer of 2011 and received some 350 comments from members of the public, those hearings were mere window dressing.

45. In fact, the Plan was developed entirely in secret. The GRAC never discussed or revealed its own plan for the proposed map to the public. Instead, the committee members conducted their deliberations and calculations entirely behind closed doors. This was made possible because the GRAC—by design—was not required by law to abide by the Maryland Open Meetings Act.

46. The GRAC drew its proposed redistricting map with no input or participation from Republican lawmakers. The GRAC did, however, have access to the Maryland Board of Elections statistical data, which provides highly detailed geographic information about voter registration, party affiliation, and voter turnout across the State.

47. Precinct-by-precinct voting information available to the GRAC allowed the committee to analyze voting patterns and political affiliation at a granular level. The Maryland State Board of Elections posts a trove of statistics on Maryland voters, including voter registration by precinct, election day turnout by precinct and party, party share of vote by voting category, and voter consistency. This information, among other data, was used to shape partisan congressional districts with pinpoint accuracy.

48. The committee approved its final map on October 4, 2011, by a 4-to-1 vote. Former Delegate King—the lone Republican—cast the sole dissenting vote.

49. After receiving the GRAC's proposed plan on October 4, 2011, Governor O'Malley published a "substantially similar" final version on the evening of Saturday, October 15, 2011, just two days before the special session of the legislature he had called to approve it. *See* Annie Linskey & John Fritze, *O'Malley Unveils Proposed Congressional Map*, Balt. Sun (Oct. 15, 2011).

50. With no opportunity for public comment, the bill was introduced on the following Monday morning, approved by the Senate redistricting committee the same afternoon, and passed a vote of the Senate the next Tuesday morning. *See* Aaron C. Davis,

Maryland Senate Approves Gov. Martin O'Malley's Redistricting Map, 33 to 13, Wash. Post (Oct. 18, 2011). The House of Delegates followed a similarly expedited process, but a Republican parliamentary maneuver held up the vote for a day. *See* Annie Linskey & John Fritze, *O'Malley's Map Easily Wins House Approval*, Balt. Sun (Oct. 19, 2011).

51. On Thursday, October 20, 2011—barely 72 hours after it was proposed in the Senate—Governor O'Malley signed the Plan into law. *See* Annie Linskey & John Fritze, *O'Malley's Map Signs Congressional Map Into Law*, Balt. Sun (Oct. 20, 2011).

52. Not a single one of Maryland's 55 Republican legislators voted for the map at any stage of the process, including the nine Republican legislators on the Senate and House redistricting committees and former Delegate James King, who served on the GRAC. Through its public hearings and the inclusion of a Republican lawmaker, the GRAC attempted to create the appearance of bipartisanship and openness. But in reality, the Plan was drafted in secret, and Democratic lawmakers and committee members rushed it through the legislature hastily and with no input from their Republican colleagues.

53. Without intervention, the Plan will remain in effect through at least 2020.

B. The Plan produced a map that cracks and packs Republican voters, ignores traditional political boundaries, and divides communities of common political and social interests, with the result of preventing Republican voters in the pre-2011 6th District from electing a Republican representative

54. The Plan is widely regarded as one of the most gerrymandered in the Nation. A detailed analysis conducted by *The Washington Post* confirms that "Maryland and North Carolina are essentially tied for the honor of most-gerrymandered state" overall. *See* Christopher Ingraham, *America's most gerrymandered congressional districts*, The Wash. Post (May 15, 2014), perma.cc/9JP6-FDZD.

55. The following graphic depicts Maryland's 2011 redistricting plan.

56. The congressional districts are held together by narrow ribbons of territory and have evoked comparisons to a "praying mantis" (Ingraham, *supra*), a "Rorschach-like eyesore" (*Fletcher*, 831 F. Supp. 2d at 906 (Titus, J., concurring)), and a "broken-winged pterodactyl, lying prostrate across the center of the State" (*id.* at fn. 5). An unsigned editorial in *The Washington Post* decried that the Plan "mocks the idea that voting districts should be compact or easily navigable," explaining that, "[t]o protect incumbents and for partisan advantage, the map has been sliced, diced, shuffled and shattered, making districts resemble studies in cubism." *Md. redistricting maps are comic and controversial*, The Wash. Post (Oct. 29, 2011), perma.cc/A7BN-6LSD.

57. Several of the districts are essentially noncontiguous, split into two or more segments held together by narrow ribbons along major interstate highways. The 4th, 6th, 7th, and 8th Districts each consist of at least two distinct segments, one segment of which is more populous than the other and is socioeconomically, demographically, and politically

inconsistent with the other segment. In each of these Districts, the larger and smaller sections are connected only in a technical sense by a narrow ribbon.

58. A car driving from Bethesda on a direct route along I-495, I-95, and I-83 through Baltimore to Towson—a mere 50 mile trip—would set out from Maryland's 8th District and in sequence pass through the 3rd District, 4th District, 5th District, 4th District, 3rd District, 2nd District, 3rd District, 7th District, 3rd District, 2nd District, 3rd District, 7th District, 3rd District, and 2nd District, until finally arriving in Towson. That's in and out of six congressional districts 14 times over just 50 relatively straight miles. And that's to say nothing of that fact that Towson—a town of just 55,000—is itself split among the 1st, 2nd, and 3rd Districts.

59. In addition to their visual irregularity, the districts do not respect traditional geographic or political boundaries or the composition of communities of interest. This is not an accident. The GRAC moved and split neighborhoods and communities in and out of districts based primarily upon the prevailing voting history and political party affiliation of the residents of those neighborhoods and communities.

60. As a result, the 2011 Plan has paired voters that do not share the most basic elements of a neighborhood or community: Voters grouped together in single, meandering districts have "different climate[s], root for different sports teams, and read different newspapers." *Fletcher*, 831 F. Supp. 2d at 906 (Titus, J., concurring). The 6th District, for example, brings together voters "who have an interest in farming, mining, tourism, paper production, and the hunting of bears . . . with voters who abhor the hunting of bears and do not know what a coal mine or paper mill even looks like." *Id.* at 906.

61. Between the 2000 and 2010 censuses, the population of Maryland grew by 9%, but six of the eight existing congressional districts remained within 3% of the ideal size of 721,529 people. Despite the relatively small adjustments needed to accommodate

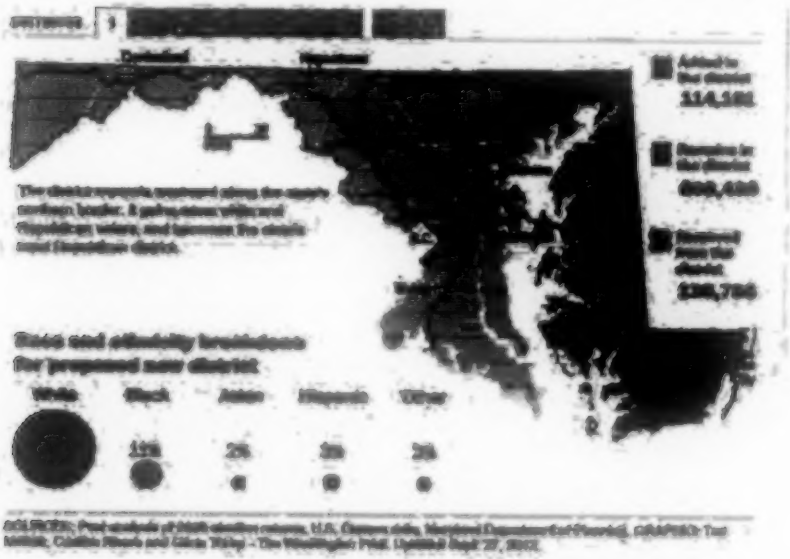
population growth, the Plan shuffled nearly one-in-three Marylanders from one district to another, scrambling the representation of 1.6 million people. See *Gerrymandered? Maryland voters to decide*, The Wash. Post (Sept. 27, 2012), perma.cc/CL96-PT25. This massive re-sorting of voters was intended to "pack" Republicans into the 1st District and "crack" Republicans in the 6th District, while maintaining close-but-safe margins in favor of Democrats in all other districts.

62. Prior to 2011, the Democrats Party held six House seats in Maryland, while Republicans held two. In 2012, the first election after the 2011 redistricting, Democratic challenger John Delaney routed 10-term Republican incumbent Roscoe Bartlett. Delaney was reelected in 2014, defeating Republican nominee Dan Bongino, whose campaign was managed by plaintiff Strine and whose fundraising was overseen by plaintiff Pycha.

63. The defeat of Representative Bartlett in 2012 left seven of Maryland's eight Congressional seats (87.5%) in the hands of Democrats, despite that Democratic candidates received just 63% of the popular vote across the State that year. The 2014 election produced even more inequitable results: Democrats held on to 87.5% of the congressional seats while receiving just 58% of the popular vote.

64. The **1st District** covers Maryland's Eastern Shore and stretches across a portion of the northern border of the State. It is the State's "packed" Republican district. Prior to 2011, this district included more of suburban Baltimore County, and it was closely contested, shifting into Republican hands by a narrow margin in the 2010 election. As a result of the 2011 redistricting, the 1st District has been flooded with Republican voters from the 6th District and is now the state's only Republican district.

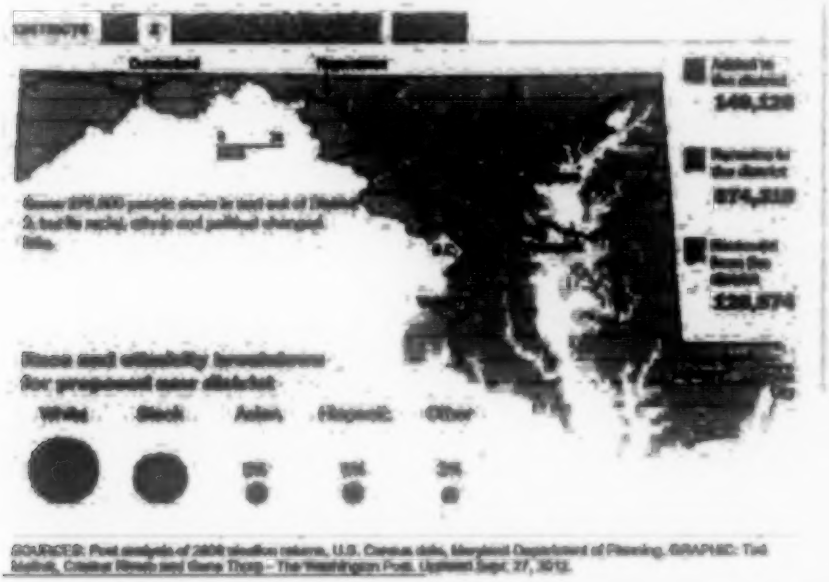
65. The following map shows the changes to the 1st District made by the Plan.



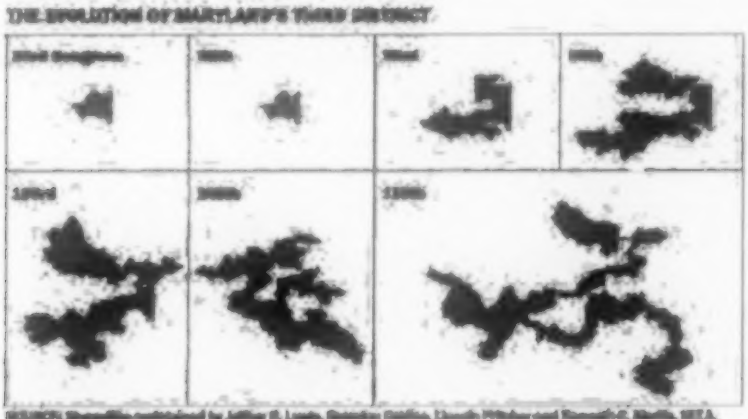
66. The 2011 redistricting reduced the population of the district by approximately 23,000: 114,161 citizens were added and 135,768 were subtracted. In the 2010 election, the Republican candidate received 54.1% of the votes; in 2012, the same candidate received 63.42% and won the election by a 36-point margin. Wendy Rosen, the 2012 Democratic nominee in the 1st District, told *The Washington Post*: "The party made it almost impossible to have a chance to win [in the 1st District]." Aaron C. Davis, *For Maryland Democrats, redistricting referendum forces a look in the mirror*, Wash. Post (Sept. 30, 2012), perma.cc/8NZF-8QFW.

67. The **2nd District** defies easy physical description. It contains a number of areas in the vicinity of Baltimore that are essentially non-contiguous except for narrow ribbons of territory between them. The 2011 redistricting moved about 275,000 people in and out of the district, but it remains largely urban and safely Democratic. The Democratic margin of victory fell by 5.47% after the redistricting.

68. The following map shows the changes to the 2nd District made by the Plan.



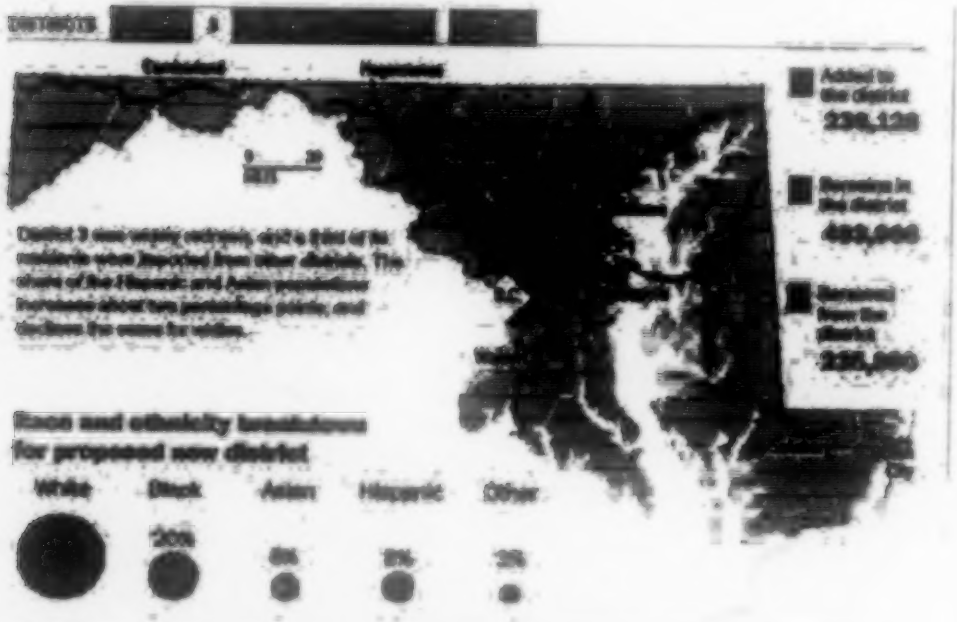
69. The **3rd District**, the second most gerrymandered district in the country (Ingraham, *supra*), has a long history of ever-worsening contortions. The following graphic depicts the evolution of the 3rd District over the past seven redistrictings.



70. As described in *Fletcher*, "[t]he District begins in Pikesville, a northwest suburb of Baltimore City; leaks eastward to capture the northeast suburbs of Baltimore City; then drops down into Baltimore City, taking a slice of the City on its way to Montgomery County, a northwest suburb of Washington, D.C.; then veers eastward in a serpentine manner to include Annapolis, a city on the Chesapeake Bay. . . . The Third District is rated at or near the bottom of all congressional districts in multiple measures of statistical compactness." 831 F. Supp. 2d at fn. 5.

71. The 2011 Plan shuffled over 450,000 people in or out of the 3rd District. Although the district remains firmly Democratic, the party's margin of victory fell by 12.2% after the redistricting.

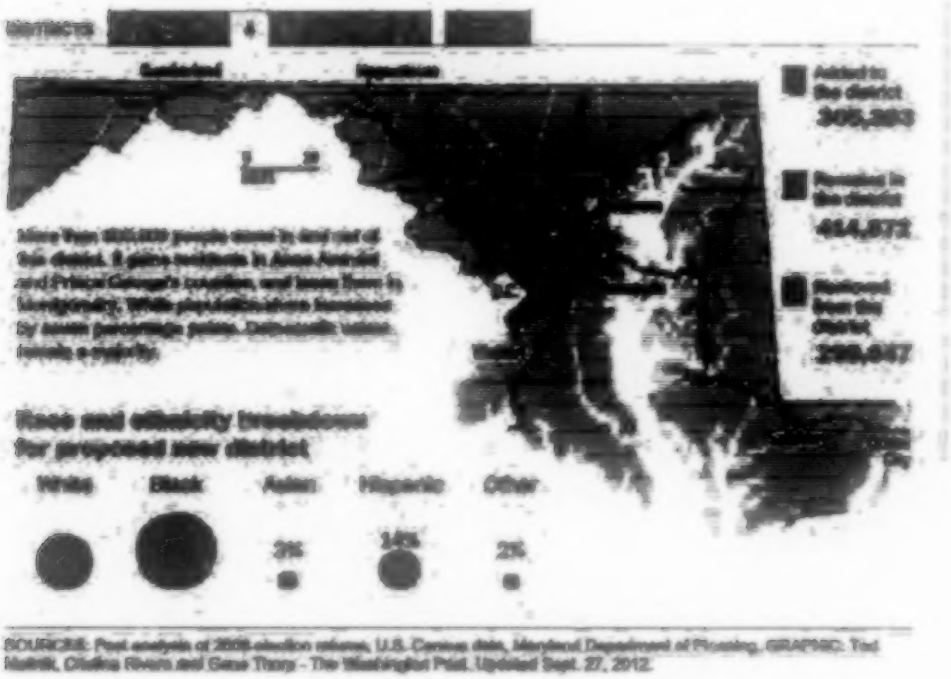
72. The following map shows the changes to the 3rd District made by the Plan.



SOURCES: Post analysis of 2008 election returns, U.S. Census data, Maryland Department of Planning, CHAPI-BCC, Ted Mellnik, Cristina Rivero and Gene Thorp - The Washington Post. Updated Sept. 27, 2012.

73. The **4th District** features a long, narrow ribbon of territory connecting portions of Anne Arundel and Prince George's counties. In the 2011 redistricting, the largely Republican voters of Anne Arundel County replaced the heavily Democratic Montgomery County voters, many of whom were moved into the formerly Republican 6th District. The redistricting shifted more than 600,000 people in and out of the district. Although the 4th District remains safely Democratic, the party's margin of victory dropped by 10% between 2010 and 2012.

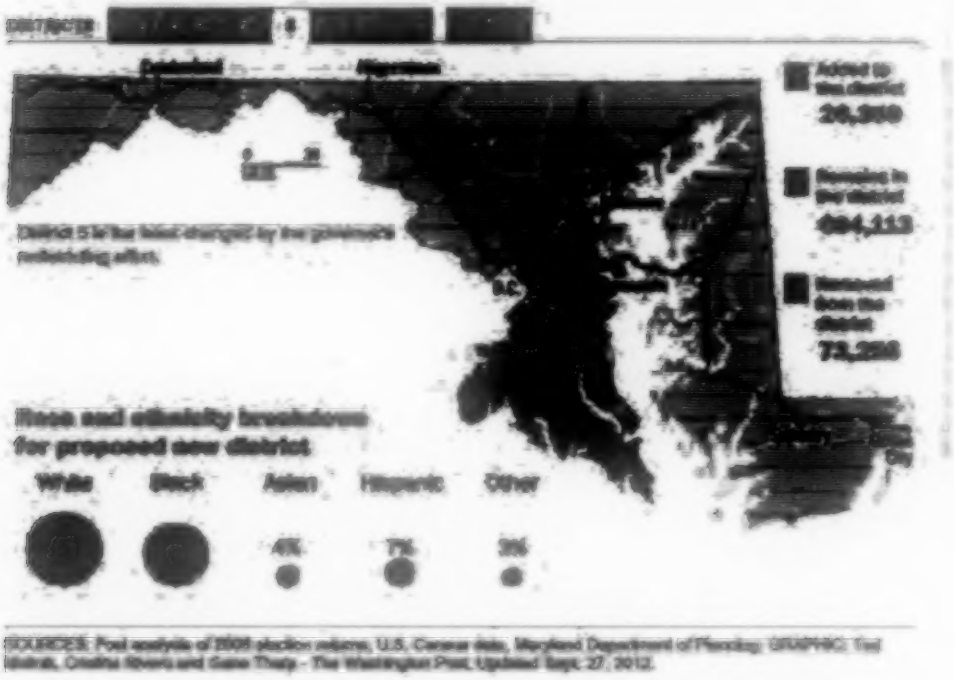
74. The following map shows the changes to the 4th District made by the Plan.



SOURCES: Post analysis of 2008 election returns, U.S. Census data, Maryland Department of Planning. GRAPHIC: Ted Mellnik, Cleshia Rivers and Gene Thorp - The Washington Post. Updated Sept. 27, 2012.

75. The **5th District** comprises all of Charles, Saint Mary's, and Calvert Counties, as well as portions of Prince George's and Anne Arundel Counties. It has long been a safely Democratic seat and was the least impacted by the 2011 redistricting.

76. The following map shows the changes to the 5th District made by the Plan.



77. The **6th District** stretches nearly 200 miles, from the West Virginia border to the Capital Beltway. "[I]t is not a well-kept secret that the plan for the sixth congressional district was developed for the purpose of disadvantaging an incumbent Republican legislator." *Fletcher*, 831 F. Supp. 2d at 905-906 (Titus, J., concurring).

78. Historically, the 6th District was reliably Republican. In the 70 years between January 1943 and January 2013, the district was represented in Congress by members of the Republican Party in four out of every five years. Prior to the legislature's

2011 adoption of the Plan, the 6th District had been the State's *most* Republican district, represented for nearly 20 years by Republican Roscoe Bartlett, who won reelection in 2010 by a 28-point margin.

79. Under the 2001 redistricting map, the district included all of western Maryland and stretched across the northern border of the state to encompass other rural areas.

80. Under the Plan, the 6th District no longer encompasses all of western Maryland and has been combined by a narrow, southward-stretching territory with portions of the Washington, D.C. suburbs, including Potomac.

81. The redistricting cracked the 6th District by removing over 360,000 residents from the mostly-Republican northern counties of the district and adding nearly 350,000 residents from predominantly Democratic and urban Montgomery County. In particular, the Plan removed from the 6th District all of Carroll County, which had voted 68% Republican and 27% Democratic in the previous congressional election. The removal of Carroll County generated a loss of over 24,000 registered Republican voters from the district.

82. The Plan also moved specific, majority-Republican precincts of Frederick County to the 8th District, while leaving the majority-Democratic precincts of the county in the 6th District. This facilitated a loss of more than an additional 12,500 Republicans voters from the district. The Frederick County precincts that remained in the 6th District contained over 6,000 more registered Democrats than registered Republicans. In a county with a 12-point Republican majority in the previous Congressional election, the likelihood of producing such a one-sided transfer of voters by chance is zero.

83. The opposite pattern describes the transfer of voters from Montgomery County: Of the Montgomery County precincts that were added to the 6th District by the Plan, registered Democrats outnumbered registered Republicans by a two-to-one margin. Moving these cherry-picked portions of Montgomery County into the 6th District generated a gain of tens of thousands of Democratic voters.

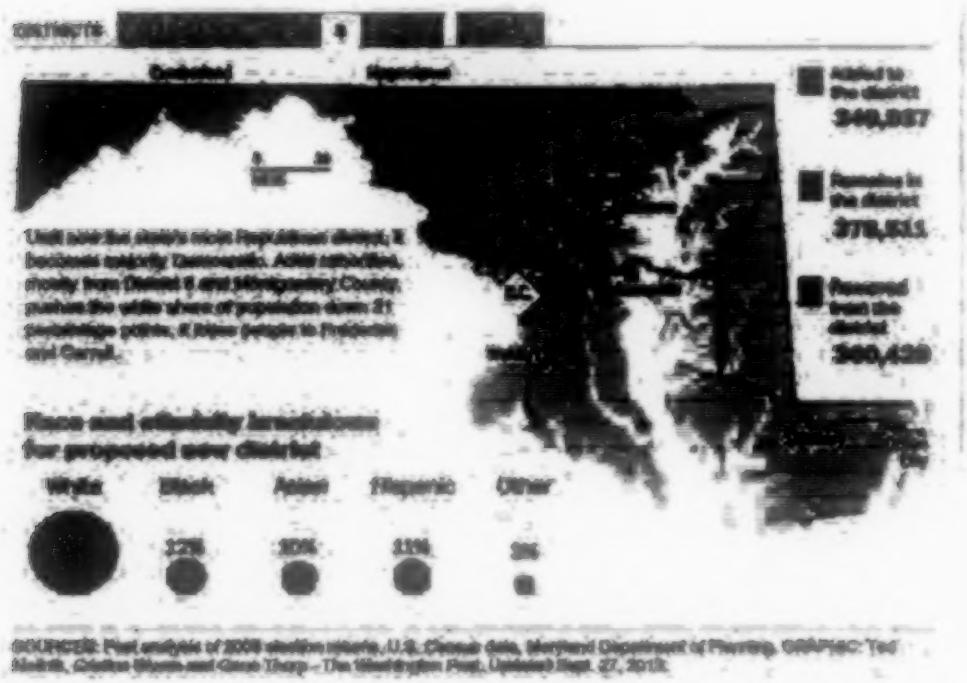
84. In total, the Plan accomplished a net transfer of over 65,000 Republican voters out of the district and over 30,000 Democratic voters into the district. *Compare* Eligible Active Voters on Precinct Register, 2010, perma.cc/QQP9-V7YX, *with* Eligible Active Voters on Precinct Register, 2012, perma.cc/V2QU-8SCE. As a result, whereas Republican voters had comprised 47% of all voters in the 6th District before the Plan, they comprise just 33% of 6th District voters after the Plan.

85. As Editorial Board of *The Washington Post* noted, the 6th District was "suddenly the scene of a competitive race" in 2012, "owing to a gerrymandered electoral map redrawn by Democrats in Annapolis." Editorial Board, *John Delaney for Maryland's 6th District*, The Wash. Post (Oct. 4, 2012), perma.cc/3NCN-Q38U.

86. Democrat John Delaney defeated Representative Bartlett in the 2012 election by a 21-point margin, as the long-time Congressman's share of the vote dropped from 61.45% to 37.9% in a single election cycle.

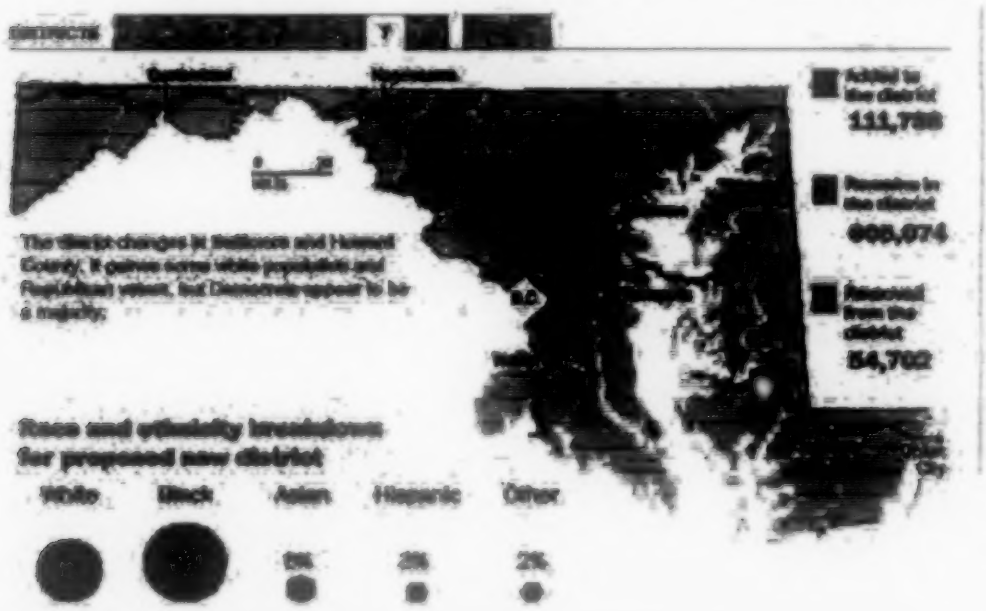
87. Representative Delaney won reelection in 2014, defeating Republican challenger Dan Bongino, whose campaign was managed by plaintiff Strine and whose fundraising was overseen by plaintiff Pycha.

88. The following map shows the changes to the 6th District made by the Plan.



89. The **7th District** covers about half of the City of Baltimore, including most of the predominantly black neighborhoods. It has always been safely Democratic. After the 2011 redistricting, the district was reconfigured to include heavily Republican portions of Baltimore County from the formerly Republican 6th District.

90. The following map shows the changes to the 7th District made by the Plan.

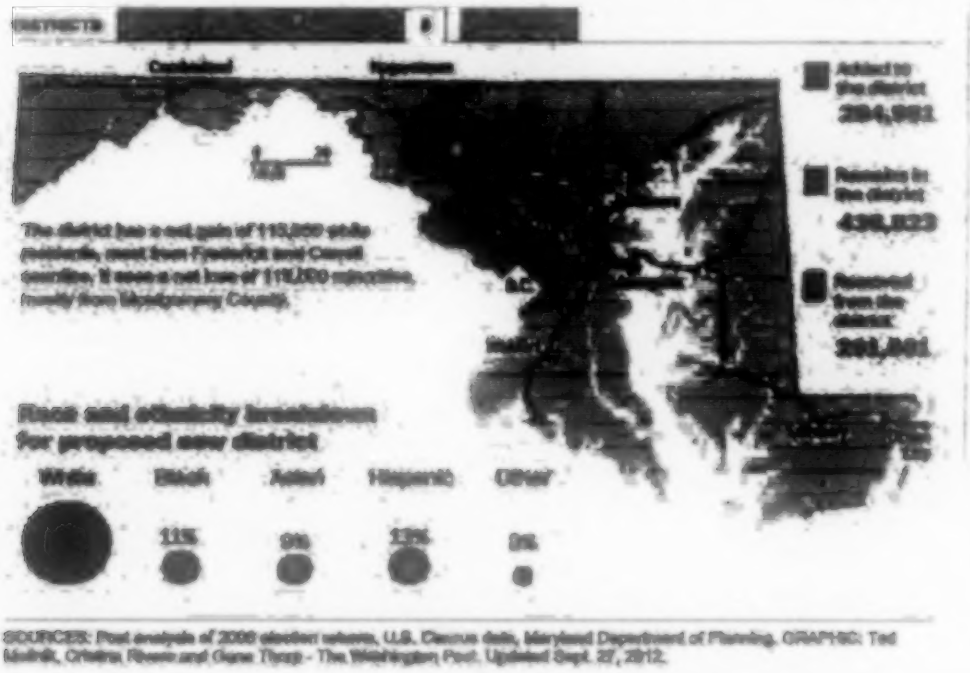


SOURCES: Post analysis of 2008 election returns, U.S. Census data, Maryland Department of Planning. GRAPHIC: Ted Mellnik, Cristina Fávero and Gene Thorp – The Washington Post. Updated Sept. 27, 2012.

91. The **8th District** was compact and coherent prior to 2011, encompassing most of Montgomery County. The 2011 redistricting altered the makeup of the district both geographically and culturally, adding 115,000 white residents, mostly from rural and predominantly Republican parts of northern Frederick and Carroll Counties, and removing 119,000 minority residents, mostly from Montgomery County. Tens of thousands of Democratic 8th District voters were swapped with Republicans from the 6th District in

order to facilitate the cracking of the 6th District. The 8th District remains safely Democratic, but the party's margin of victory fell by 17% after the district was redrawn.

92. The following map shows the changes to the 8th District made by the Plan.



SOURCES: Post analysis of 2000 election returns, U.S. Census data, Maryland Department of Planning. GRAPHIC: Ted Mellnik, Christine Rivers and Gene Thorp - The Washington Post. Updated Sept. 27, 2012.

C. **The purpose of the Plan was to burden Republican voters by reason of their political views, voting history, and political-party affiliation**

93. The goal and purpose of the Plan was to dilute Republican votes by cracking the 6th District. The predominant purpose of the map, in other words, was to burden Republican voters in the former 6th District by reason of their political views, voting history, and political-party affiliation.

1. **Direct and circumstantial facts**

94. The contorted and essentially non-contiguous shapes of Maryland's most gerrymandered congressional districts suggest, in their own right, an intent to connect

rural Republican voting blocs with dominant urban Democratic voting blocs, thereby cracking otherwise geographically and politically contiguous Republican communities in the 6th District. No other purpose can explain the otherwise convoluted nature of Maryland's congressional districts. *Cf. Gomillion v. Lightfoot*, 364 U.S. 339, 341 (1960).

95. Democratic lawmakers conceded that Maryland's map was an act of political retaliation to unseat Republican incumbent Roscoe Bartlett: "Sen. Jamie B. Raskin (D-Montgomery) said . . . that given the way Republicans had stacked the deck in districts in North Carolina, Ohio and elsewhere," his party "had little alternative" except to gerrymander Maryland to the advantage of the Democratic Party. Davis, *Maryland Senate Approves Gov. Martin O'Malley's Redistricting Map*, *supra*.

96. In private briefings after the map was released, GRAC members assured Democratic lawmakers that the map would increase the Democratic Party's power in Congress. "Sen. C. Anthony Muse, the only Democrat to vote against the map, . . . said lawmakers have been told the map is beneficial to the Democratic Party." Brian Witte, *Md. Senate approves U.S. House redistricting bill*, Associated Press (Oct. 18, 2011). Delegate Curt Anderson, a Democrat who supported the Plan, described a briefing given by GRAC Chair Jeanne Hitchcock about the redrawn 6th District: "It reminded me of a weather woman standing in front of the map saying, 'Here comes a cold front,' and in this case the cold front is going to be hitting Roscoe Bartlett pretty hard." *See* Brian Witte, *Proposed redistricting map stirs political shakeup*, Associated Press (Oct. 4, 2011).

97. GRAC members openly acknowledged their intent to crack the 6th District. GRAC member Michael Busch, the Maryland House Speaker, said for example: "I think the numbers will show that [the Plan] makes [the 6th District] pretty competitive" in favor of Democrats, whereas it previously had been a safely Republican district. *Id.*

98. GRAC Chair Jeanne Hitchcock confirmed that purpose, noting that the 6th District was now "dominated" by the Democratic voters of Montgomery County. *Id.*

99. During the limited period of debate on the Plan, several Democratic lawmakers embraced the Plan's partisan gerrymander, while at the same time expressing frustration that the GRAC had implemented it at the expense of minority voters. "I have been one of the strongest proponents as a Democrat of drawing a seventh district for Democrats" said Representative Donna Edwards, who represents Maryland's 4th Congressional District. "But we can accomplish that in a different way . . . .Where I have a real disagreement is in making superior the political interests to the minority voting rights interests." *See* Aaron C. Davis and Ben Pershing, *Donna Edwards, Montgomery officials line up against redistricting map*, The Wash. Post (Oct. 11, 2011).

100. Democratic Delegate Emmett C. Burns, Jr., stated on the House floor that although he disapproved of how the map would affect minorities, he ultimately supported the Plan for a simple reason: "more Democrats in the House of Representatives." *See* Annie Linskey & John Fritze, *O'Malley's Map Easily Wins House Approval*, Balt. Sun (Oct. 19, 2011).

101. To achieve those expressly stated ends, legislators and their map-drawers deliberately drew lines based upon Republican voters' political views, voting history, and political-party affiliation in the mapmaking process.

102. The secrecy and other circumstances surrounding the Plan's enactment, the Plan's overall disrespect of traditional political boundaries and division of communities of interest, the non-compactness and non-contiguity of the Plan's districts, and on-the-record statements from legislators and members of the GRAC conclusively demonstrate that the primary consideration motivating lawmakers in adopting the Plan was their desire and

intent to dilute the votes of Republican Marylanders in the 6th District by reason of their political views, voting history, and political-party affiliation.

2. Statistical facts

103. The foregoing allegations, which demonstrate that the Plan was drawn in violation of the Constitution, are bolstered by statistical analyses that confirm that the cracking of Republican voters in the 6th District was not the product of chance or constitutionally acceptable considerations, but the result of a deliberate effort to disadvantage Republican voters by reason of their voting histories and political party affiliations.

104. One statistical tool to demonstrate vote dilution is to simulate a State's election using actual election results from other States throughout the Nation. *See* Wang, *supra*. This tool can help determine whether a disproportional election outcome is the product of deliberate manipulation by the legislature.

105. The Supreme Court has recognized in racial gerrymandering cases that proportionality "is a relevant fact in the totality of circumstances to be analyzed when determining whether members of a minority group have 'less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.'" *Johnson v. De Grandy*, 512 U.S. 997, 1000 (1994).

106. Applying that same observation to partisan gerrymanders, the normal-district simulation test asks whether a redistricting plan moves the seats-to-vote outcome *toward* partisan proportionality or *away* from it. If a plan moves the outcome away from proportionality, the test asks whether the change could have arisen as a result of normal variation in districting as practiced across the Nation.

107. Computer simulations looking at election returns nationwide can be used to ask a simple question: If a given State's popular House vote were split into *differently* drawn districts carved from the same statewide voting population and party-affiliation

breakdown, what would its Congressional delegation look like? *See* Wang, *supra*, at 28. Using statistical software on an ordinary laptop computer, it is possible to create millions of hypothetical combinations of districts from around the United States that add up to the same statewide vote total for each party.

108. Using this statistical tool—that is, evaluating the average of one million random combinations of eight districts from States throughout the Nation that add up to the same statewide vote total for each political party—one researcher has shown that the expected congressional delegation from Maryland in 2014, in the absence of impermissible gerrymandering, would ordinarily comprise 5 Democrats and 3 Republicans. The current composition of Maryland's House delegation is 7 Democrats and 1 Republican.

109. The next step in the statistical analysis is to ask whether the difference between the normal-district simulation test and actual observed election results are the product of chance or deliberate design. This is called the "zone-of-chance" test. *See* Wang, *supra*, at 24-38, 53. If the results fall within the zone of chance, it is evidence that the difference between the average simulation and actual election outcome can reasonably be attributed to chance. If the results fall outside the zone of chance, it is strongly suggestive (to a statistically-significant degree of confidence) that the imbalance is the product of deliberate legislative design.

110. The zone of chance test shows to a statistically significant degree of confidence that the difference between the simulated average for Maryland in 2014 and the actual elections outcome under the Plan is the product of a purposeful effort to dilute Republican votes by cracking the 6th District.

111. Other statistical tests demonstrate the same.

3. Chilling

112. The dilution of Republicans' votes in Maryland has chilled and manipulated political participation since 2011 in precisely the ways that the Supreme Court had warned against.

113. Gerrymanders that "pack" votes chill political participation because voters in packed districts understand that their votes "won't count" because they cannot affect the outcome. Voters in packed districts are thus discouraged from voting. Voters in packed districts also understand that other like-minded voters' votes "won't count" and thus are less likely to participate actively in campaigning for their chosen candidates.

114. The Plan has chilled protected political speech throughout the State in just those ways.

115. Vote "cracking" chills political speech in an even more pernicious way in Maryland because Maryland employs a closed primary registration system. For a voter to participate in a particular political party's primary, the voter must be a registered member of that party. Registered Republicans cannot participate in Democratic primaries, in other words, and registered Democrats cannot participate in Republican primaries.

116. In districts where the Democratic Party's candidate is very likely to win the general election, the only real opportunity to influence what person is ultimately elected is the Democratic primary race. Under the closed primary system, residents must register as members of the Democratic party in order to vote in the Democratic primary.

117. Some Maryland voters who would otherwise register as Republicans have been chilled from doing so. They have chosen, instead, to register (against their preferences) as members of the Democratic Party so that they can participate in the Democratic Party's closed primary. Others who do not register as Democrats against their preference are, the legislature's design, shut out of the Democratic primary and lose any

opportunity to influence meaningfully the outcome of the general election. Voters of that sort are prevented from playing any meaningful role in the selection of their representatives and are therefore directly discouraged from participating in the political process.

118. More broadly, the Plan has chilled participation in general elections. Voters who feel that the outcomes of elections are preordained by the legislature's map-drawing and discouraged from casting their votes or engaging in the political process at all.

119. The Plan thus "casts a chill, a chill the First Amendment cannot permit if free speech, thought, and discourse are to remain a foundation of our freedom." *United States v. Alvarez*, 132 S. Ct. 2537, 2548 (2012).

D. The Plan's burden on Republican voters cannot be explained by geography or compliance with legitimate redistricting criteria

120. The extreme partisan gerrymander at issue here cannot be explained or justified by reference to Maryland's geography or other legitimate redistricting criteria. It was possible to fashion a plan that does not crack the 6th District or pack the 1st District and that is as good as or better than the Plan in achieving equal population, compactness, respect for traditional political boundaries, and compliance with the Voting Rights Act.

121. In other words, the cracking of the 6th District would not have taken place without the legislature's targeting of Republican voters on the basis of their First-Amendment-protected conduct.

122. The GRAC's explanation for many of the changes the Maryland's congressional apportionment are implausible and contradicted by the Plan itself. The new 6th District, for instance, was purportedly drawn to "reflect the North-South connections between Montgomery County, the I-270 Corridor, and the westerns portions of the State." No such connections exist. The sham explanations provided by the GRAC and the Governor

are a pretext for the true purpose of the Plan: to dilute Republican votes and claim an additional congressional seat for the Democratic Party by cracking the 6th District.

123. The committee received numerous alternative plans from third-parties. Those alternative plans received little consideration from the GRAC or the Governor, even though many accorded better with common sense and would have produced results that, upon information and belief, were more consistent with traditional map-drawing and redistricting principles. *See* Exhibits B & C.

124. Upon information and belief, several alternative plans would have avoided cracking the former 6th District while better respecting traditional political and community boundaries and achieving equal compliance with the one-person-one-vote standard. The alternative plans also accorded better with the broadly-supported concepts of contiguity and compactness.

125. Under the plan submitted by the Maryland Republican Party, for example, Montgomery County and its more urban voters would have remained in the geographically compact 8th and 4th Districts around Washington, D.C., respecting the cohesiveness of a region that shares common political, social, and economic interests. The Republican 6th District would have encompassed the rural northern and western counties, which also share common interests; and Baltimore and its immediate surroundings would have occupied the entire 7th District.

126. The alternative plans would have better respected existing geographic and political boundaries, minimizing split counties and split communities of interest. In most cases, Frederick, Carroll, Anne Arundel, Harford, and Baltimore City Counties would all have remained undivided in their respective districts; under the current Plan, each is currently split between two or more congressional districts.

127. In keeping communities and political units that share common interests together, the districts in the alternative plans are unsurprisingly more contiguous and compact than the districts under the current Plan.

128. Upon information and belief, at least one of the alternative plans would have satisfied all of the constitutional requirements for congressional reapportionment without diluting either party's votes to a constitutionally significant degree.

CLAIMS FOR RELIEF

A. Violation of the First Amendment

129. Plaintiffs repeat and re-allege each and every allegation set forth in the preceding paragraphs as if set forth fully herein.

130. Plaintiffs and voters throughout the Nation should be able to organize politically, to support political campaigns, to register with their preferred political parties, and to vote in support of their preferred candidates without fear that—if they are successful in electing the public officials of their choice—they will be targeted and retaliated against by the legislature for the exercise of the First Amendment rights.

131. The Maryland legislature expressly and deliberately considered the voting histories and political party affiliations of Republican voters, including plaintiffs, when it redrew the lines of the 6th Congressional District as part of the Plan.

132. The legislature redrew the lines of the 6th District with an intent to burden and punish those voters, including plaintiffs, for their First-Amendment-protected conduct.

133. The Plan, in actual effect, has burdened Republican voters in the former 6th Congressional District, including plaintiffs, as a sanction for the exercise of their First Amendment rights. The cracking of the 6th District would not have taken place without the legislature's targeting of Republican voters on the basis of their First-Amendment-protected conduct; and Republican voters in the former 6th District, including plaintiffs,

would have been able to elect a Republican representative in 2012 and 2014, but for the cracking of the district under the Plan.

134. The State cannot justify the cracking of the 6th District by reference to geography or compliance with constitutionally legitimate redistricting criteria.

B. Violation of Article 1, Sections 2 and 4

135. Plaintiffs repeat and re-allege each and every allegation set forth in the preceding paragraphs as if set forth fully herein.

136. The Maryland legislature expresaly and deliberately considered Republican voters' voting histories and political party affiliations, including those of plaintiffs, when it redrew the lines of the 6th Congressional District as part of the Plan.

137. The legislature redrew the lines of the 6th District with an intent to sanction those voters, including plaintiffs, for their voting histories and political party affiliations.

138. The Plan, in actual effect, has burdened Republican voters in the former 6th Congressional District, including plaintiffs. The cracking of the 6th District would not have taken place without the legislature's targeting of Republican voters, including plaintiffs; and Republican voters in the former 6th District would have been able to elect a Republican representative in 2012 and 2014, but for the cracking of the district under the Plan.

139. The Plan has thus had the effect of burdening Republican voters' representational rights by diluting the efficiency and effect of their votes.

140. The legislature, rather than Maryland's voters, has in effect chosen the representative to the U.S. House of Representatives for Maryland's 6th District.

141. The result is a violation of plaintiffs' representational rights, protected under Article I, Sections 2 and 4, of the United States Constitution.

142. The State cannot justify the cracking of the 6th District by reference to geography or compliance with constitutionally legitimate redistricting criteria.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs respectfully request that the Court:

A. declare the Plan unconstitutional and invalid, and the maintenance of the plan for any election of any kind a violation of plaintiffs' constitutional rights;

B. enjoin defendants and their employees and agents from administering, preparing for, and in any way permitting the nomination or election of any Member of United States House of Representatives from Maryland's 6th, 7th, or 8th Congressional Districts;

C. in the absence of a state law establishing a constitutional district plan for Maryland's congressional districts, adopted by the Legislature and signed by the Governor in a timely fashion, establish a redistricting plan that is valid under the law;

D. award plaintiffs their reasonable attorneys' fees, costs, and litigation expenses incurred in bringing this action; and

E. grant such further relief as the Court deems just and proper.

February 16, 2016

/s/ Michael B. Kimberly

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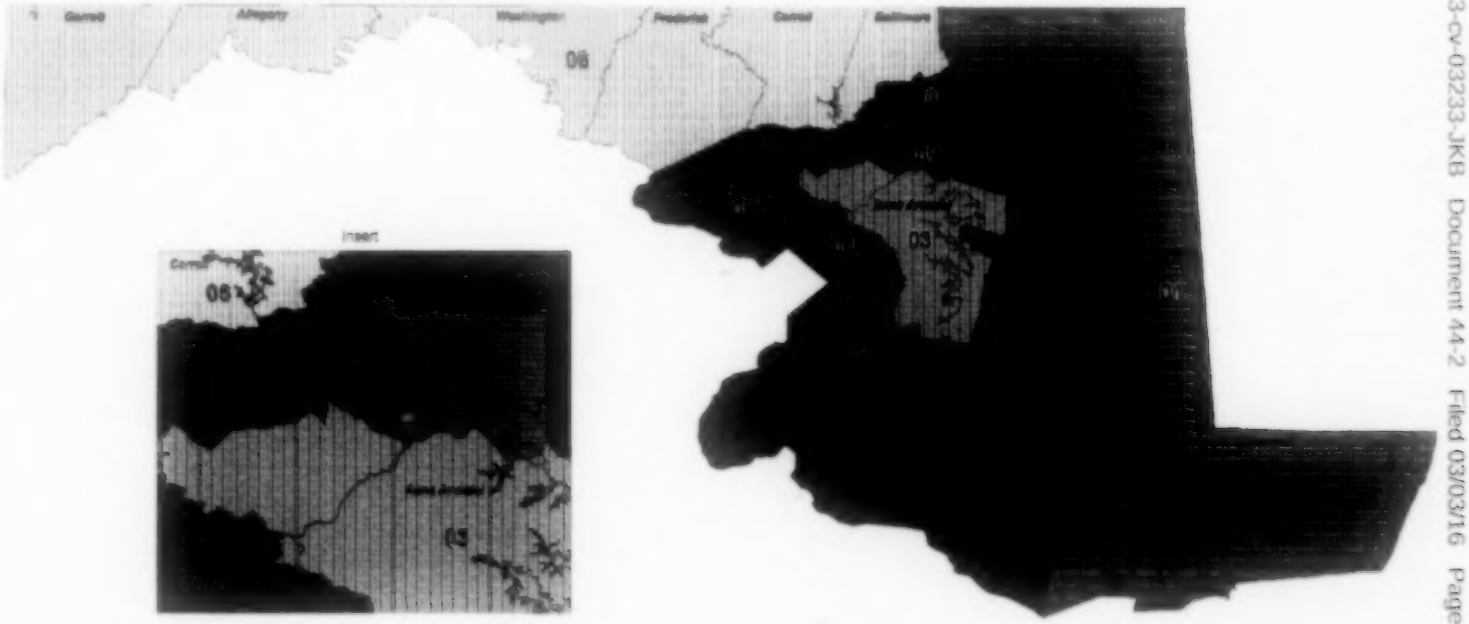
Maryland 2011 Congressional Districts
Senate Bill 1
October 20, 2011

Maryland Republican Party Congressional District Plan Update as Submitted to the Governor's Redistricting Advisory Committee

Submitted as a Block Equivalency file on September 19, 2011



Steve Shapiro's Congressional District Plan B-1 Corrected
as Submitted to the Governor's Redistricting Advisory Committee

Submitted as a Precinct Equivalency file on September 21, 2011

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

Stephen M. Shapiro, et al. *Plaintiffs*, vs. David J. McManus, Jr., et al., *Defendants*.	Case No. 13-cv-3233 Three-Judge Court

JOINT STIPULATIONS

Pursuant to this Court's October 13, 2016 minute order, the parties file these Joint Stipulations of Fact and Law. The facts in these joint stipulations and exhibits attached hereto are intended to be received into evidence in lieu of further proof or testimony. The parties reserve their rights to contest the relevance of any stipulation or exhibit.

GLOSSARY OF TERMS

1. The "Governor" means former Maryland Governor Martin O'Malley.

2. The "Plan" means the map established by Senate Bill 1, which the Governor signed into law on October 20, 2011, and codifies the boundaries of Maryland's eight congressional districts today in effect.

3. The "GRAC" means the Governor's Redistricting Advisory Committee established by the Governor in July 2011.

4. The "District" means Maryland's Sixth Congressional District.

5. The "State" means Maryland.

6. The "Census" means the decennial United States Census mandated by Article I, Section 2 of the United States Constitution. As used in these stipulations, the "Census" additionally refers to the statement prepared by the President of the United

States pursuant to 2 U.S.C. § 2a showing the number of persons in each state and the number of representatives to which the state is entitled.

THE SIXTH DISTRICT BEFORE THE PLAN

7. The following individuals won election as United States Representative for the District between January 1943 and January 1993:

a. David J. Lewis, a Democrat, served 1911 through 1917;

b. Frederick N. Zihlman, a Republican, served 1917 through 1931;

c. David J. Lewis, a Democrat, served 1931 through 1939;

d. William D. Byron, a Democrat, served 1939 through 1941;

e. Katharine Byron, a Democrat, served 1941 through 1943;

f. J. Glenn Beall, a Republican, served 1943 through 1953;

g. DeWitt S. Hyde, a Republican, served 1953 through 1959;

h. John R. Foley, a Democrat, served 1959 through 1961;

i. Charles McCurdy Mathias, Jr., a Republican served 1961 through 1969;

j. J. Glenn Beall, Jr., a Republican, served 1969 through 1971;

k. Goodloe E. Byron, a Democrat, served 1971 through October 1978;

l. Beverly Barton Butcher Byron, a Democrat, served 1979 through 1993.

8. Republican Roscoe G. Bartlett challenged Beverly Barton Butcher Byron as United States Representative for the District in 1982, losing by a 49% margin. Bartlett won election as United States Representative for the District in each of the following years, with the indicated margins of victory over his Democratic challenger: 1992 (8.3%); 1994 (31.9%); 1996 (13.7%); 1998 (26.8%); 2000 (21.4%); 2002 (32.3%); 2004 (40.0%); 2006 (20.5%); 2008 (19.0%); 2010 (28.2%).

9. The District's total adjusted 2010 Census population was 731,715. *See* Exhibit 1.

10. There were 208,024 Republican and 159,715 Democrat registered eligible voters in the District on October 17, 2010. On that date, Republicans comprised 46.68% and Democrats comprised 35.84% of registered eligible voters in the District. See Exhibit 2.

11. There were 182,775 Republican and 144,398 Democrat registered eligible voters in the District on October 15, 2002. On that date, Republicans comprised 48.39% and Democrats comprised 38.23% of registered eligible voters in the District. *See ibid.*

12. There were 182,431 Republican and 156,841 Democrat registered eligible voters in the District on October 13, 2000. On that date, Republicans comprised 46.46% and Democrats comprised 39.94% of registered eligible voters in the District. *See ibid.*

13. There were 133,773 Republican and 135,818 Democrat registered eligible voters in the District on August 13, 1990. On that date, Republicans comprised 45.36% and Democrats comprised 46.05% of registered eligible voters in the District. *See ibid.*

14. There were 122,762 Republican and 121,918 Democrat registered eligible voters in the District on February 3, 1992. On that date, Republicans comprised 46.19% and Democrats comprised 45.87% of registered eligible voters in the District. *See ibid.*

THE DRAFTING OF THE PLAN

15. The Maryland State Board of Elections is responsible under Maryland law for administering federal elections under the Plan. It is the primary source of aggregated address-level voter registration data, address-level voter history, and official election results in Maryland. The Board keeps voter registration, voter history, and elections data that is available to the public. Certain files are available upon application and payment of a fee and others are available freely on the webaite.

16. The United States House of Representatives consists of 435 members apportioned among the States according to population after each decennial census. After the 2000 Census, Maryland was entitled to 8 representatives. After the 2010 Census, Maryland was entitled again to 8 representatives.

17. The Maryland State Department of Planning produced adjusted Census population data to comply with the No Representation Without Population Act of 2010. That data was made available as a Report of Maryland Precinct Population Data and required a correction. The GRAC had access to this report. A true and accurate copy of the report is marked with the Bates-number range MCM001135 to MCM001389 in documents exchanged by the parties. The parties stipulate that the matters of fact asserted, stated, or depicted in MCM001135 to MCM001389 are true and correct.

18. The Governor established the GRAC by executive order in July 2011. The GRAC was charged with holding public hearings around the State and drafting redistricting plans for the Governor's consideration to set the boundaries of the State's 47 legislative districts and 8 congressional districts following the 2010 Census.

19. The Governor appointed Jeanne D. Hitchcock to serve as chair of the GRAC. Hitchcock at the time served as Appointments Secretary in the Office of the Governor and had previously served as Deputy Mayor of Baltimore when the Governor served as Mayor.

20. The Governor additionally appointed to the GRAC: Democratic Delegate and Speaker of the House Michael E. Busch; Democratic Senator and President of the Senate Thomas V. Mike Miller, Jr.; Richard Stewart, a private business owner who had chaired the Governor's 2010 re-election campaign in Prince George's County; and former Delegate James. J. King, a Republican from Anne Arundel County. Linda C. Janey served on the GRAC's staff.

21. The foregoing list of GRAC members is exclusive; there were no other members of the GRAC.

22. The GRAC held 12 public hearings around the State in the summer of 2011 and received approximately 350 comments from members of the public concerning congressional and legislative redistricting in the State. Approximately 1,000 Marylanders

attended the hearings, which were held in Washington, Frederick, Prince George's, Montgomery, Charles, Harford, Baltimore, Anne Arundel, Howard, Wicomico, and Talbot Counties, and Baltimore City. True and accurate copies of the transcripts of these hearings are marked with the Bates-number range MCM000001 to MCM000704 in documents exchanged by the parties. True and accurate copies of written testimony submitted to the GRAC on the subject of congressional redistricting are marked with the Bates-number range MCM000705 to MCM000906 in documents exchanged by the parties.

23. The GRAC solicited submissions of alternative plans for congressional redistricting prepared by third parties for its consideration. True and accurate copies of the third party plan submissions retained by the Department of Planning for publication on its website are marked with the Bates-number range MCM000907 to MCM001134 in documents exchanged by the parties. The GRAC had access to these plans.

24. The Department of Planning prepared a Briefing Book and provided it to the members of the GRAC. A true and accurate copy of this Briefing Book is marked with the Bates-number range MCM001392 to MCM001824.

25. The GRAC had access to information contained in a spreadsheet of the addresses of the 2010 Maryland Congressional representatives maintained by the Department of Planning. A true and accurate copy of the spreadsheet is marked with the Bates-number MCM001391 in documents exchanged by the parties.

26. The GRAC and the Department of Planning solicited and accepted public comment. True and accurate copies of comments on the proposed Congressional plan between October 4 and October 11, 2011 via e-mail and web comment form in the form prepared by the Department of Planning are marked with the Bates-number range MCM002436 to MCM002853 in documents exchanged by the parties. True and accurate copies of e-mails as maintained by the Department of Planning in hard copy are marked

with the Bates-number range MCM002243 to MCM002435 in documents exchanged by the parties. True and accurate copies of letters received regarding the GRAC plan and maintained by the Department of Planning are marked with the Bates-number range MCM002854 to MCM002870 in documents exchanged by the parties.

27. The GRAC was exempt by law from the Maryland Open Meetings Act.

28. The GRAC prepared a draft plan using a computer software program called Maptitude for Redistricting Version 6.0. According to a 2010 promotional brochure produced by the program's publisher, Caliper Corporation, Maptitude for Redistricting allowed users to, among other things, "[c]reate districts using any level of geography," "[s]elect any number of summary data fields and compute totals and percents," "[a]dd political data and election results," and "[u]pdate historic election results to new political boundaries." *See* Exhibit 3.

29. The State Board of Elections maintains voter and voting data including address-level voter registration data, including by party affiliation; and address-level voter-history data. The State Board of Elections also makes publicly available votes cast during early voting, on election day, and by absentee or provisional ballot at various levels of aggregation. This information was available to the GRAC.

30. Data described in the immediately prior paragraph, including data reflecting Maryland citizens' political party affiliations and voting histories, can be used to determine how the outcome of historical elections would have changed in the District if the proposed plan had been in place in prior years, including in 2010.

31. One widely understood consequence of the Plan was that it would make it more likely that a Democrat rather than a Republican would be elected as representative from the District.

32. The GRAC completed its proposed map on October 4, 2011. The four Democrats on the GRAC voted in favor of the proposal. The sole Republican, former Delegate King, voted against it. The GRAC prepared a PowerPoint presentation to accompany its recommended plan, it is attached as Exhibit 6.

ENACTMENT OF THE PLAN

33. The governor announced on October 15, 2011 that he would submit to the legislature a map that was, for purposes of this litigation, substantially the same as the map proposed by the GRAC. The changes made to the proposed plan by the Governor or his staff are depicted in Exhibit 4.

34. On October 17, 2011, the Senate President introduced Senate Bill 1 on behalf of the governor at a special legislative session. The same day, the Senate Committee on Reapportionment and Redistricting and the House Rules Committee held a joint hearing on Senate Bill 1 and voted to approve the bill. An audiofile of these proceedings is attached as Exhibit 19. After adopting technical amendments immaterial to this litigation, the Senate passed the bill on October 18, 2011, and sent it to the House of Delegates, which, after adopting additional technical amendments immaterial to this litigation, passed the bill on October 19, 2011. The Senate subsequently concurred in the House's technical amendments, and the Governor signed Senate Bill 1 into law on October 20, 2011. The Congressional District Map established by Senate Bill 1 is attached as Exhibit 5.

35. Jeanne Hitchcock briefed the House and Senate Democratic Caucuses about the proposed plan on October 3, 2011. *See* Exhibit 6.

36. No Republican Senator or Delegate voted for Senate Bill 1 in committee or on the floor in recorded roll call votes.

37. One Democratic Senator, Sen. C. Anthony Muse, and five Democratic Delegates, Tiffany Alston, Aisha Braveboy, Alfred C. Carr Jr., Ana Sol Gutierrez, and Luiz

Simmons, voted against the Plan. All other Democratic Senators and Delegates voted in favor of the Plan.

38. A true and accurate copy of the legislative history of SB1 through SB6 of the 2011 Special Session of the Maryland General Assembly is available on the website of the General Assembly at www.mgaleg.maryland.gov (perma.cc/P2VD-6TQW). A true and accurate copy of documents from the bill files of SB1 through SB6 maintained by the Department of Legialative Services that do not appear on the Maryland General Assembly website are marked with Bates-number range MCM002871 to MCM002960 in documents exchanged by the parties.

39. Statewide referendum Question 5 on the 2012 ballot asked voters whether they were "for" or "against" the Maryland law "[e]stablish[ing] the boundaries for the State's eight United States Congressional Districts based on recent census figures, as required by the United States Constitution." There were 1,549,511 votes (64.1%) "for" the law and 869,568 votes (35.9%) "against" the law. Only two counties had more votes against than in favor of Question 5: Carroll (37,161 for and 42,459 against) and Garrett (5,423 for and 6,193 against). The results are available at perma.cc/NY6M-CALN.

PUBLIC STATEMENTS BY OFFICIALS CONCERNING THE PLAN

40. More than one month before the Plan was introduced in the legislature, Democratic Senator Richard Madaleno made the following statements in a series of taped interviews on September 13, 2011:

a. "What you see going on elsewhere is clearly in other states that are Republican controlled they are drawing maps to try to take out Democrats, so I think there is pressure on saying look, if they are playing that game elsewhere, then in states like Maryland where democrats control we've got to do the opposite." *See* Exhibit 7.

b. "This is a conflict between, what you could say, the heart and the mind of the Democratic party. The heart is 'Frank Kratovil had that seat [the 1st District] before, Frank Kratovil won before, he made hard votes on behalf of Barack Obama, we should find a way to reward our friend Frank Kratovil.' The head is telling you, 'Look, western Maryland, a new district focused toward western Maryland is one that you could actually pick up easier....' Do you reach out and help your good old friend Frank Kratovil, or do you go for where, in fact, you probably have a better chance at a pick up." *See ibid.*

c. "If you go with a competitive western Maryland district, the way that works is clearly that district comes further into Montgomery county, substantially into Montgomery county." *See* Exhibit 8.

d. "I think trying to achieve both makes it a little more difficult for everyone trying to draw the maps. But you're dealing with—one of the things that's interesting is—you're dealing with people like a Mike Miller or some of the staff of the legislature who have done this several cycles, so it's not like they are a bunch of people experimenting for the first time on how to do this." *See* Exhibit 9.

41. Donna Edwards, Democratic representative from the Fourth District, stated on October 11, 2011 in reference to the Plan: "I have been one of the strongest proponents as a Democrat of drawing a seventh district for Democrats. But we can accomplish that in a different way. . . . Where I have a real disagreement is in making superior the political interests to the minority voting rights interests." *See* Exhibit 10.

42. Democratic Senator C. Anthony Muse stated on the Maryland Senate Floor on October 18, 2011 (*see* Exhibit 11):

a. "[L]et's just be frank. As it stands, this plan dilutes minorities, minority power and parcels out minority populations—voters—to other very different communities in order to strengthen the chances of a Democrat being elected."

b. "Yes, the party walks away with maybe seven seats, but what do our minority populations walk away with?"

c. "I cannot support this map. It may well live up to the letter of the law, but surely not the spirit of the law nor the spirit of the democratic process. I think minorities lose with this map. Yes, the party gains. But honestly I believe the people, not the party, are the losers."

43. Democratic Senator Jamie Raskin stated on the Maryland Senate Floor on October 18, 2011 (*see* Exhibit 11):

a. "[T]his is not a Maryland problem with redistricting and gerrymandering. It's an American problem. All across America, people are complaining about extremely spliced and diced, curvy, swervy districts, where elected officials choose voters before voters choose elected officials. That's the system we've got in 50 states today, in the United States. And it's a process where we dress up partisan and political ambition on both sides of the aisle in high principal, but we can all tell what's really going on."

b. "To my distinguished colleagues on the other side of the aisle, the disappointment that they feel today is shared by Democrats in North Carolina, a state won by President Obama in 2008, which just had districts redrawn, ten majority Republican, three majority Democrat, with all the Democrats packed in there. In Ohio, a state that was won by President Obama in 2008, 12 majority Republican Districts have been drawn, four

> majority Democratic districts have been drawn. So they've gone way beyond anything that's been seen here. The basic problem is that we are trying to build a whole range in multiplicity of interests and factors into these single member districts, and we now have the convenience of computer technology to be able to accompliah very strange looking figures on the map."

44. Democratic Delegate Emmett C. Burns, Jr., stated on the House floor that he supported the Plan because it meant "more Democrats in the House of Representatives." *See* Exhibit 12.

45. Democratic Speaker Michael Busch said of the Plan, "I think you will have a very competitive 6th District when you didn't have that in the past." *See* Exhibit 13.

46. Democratic Delegate Curt Anderson described the October 3, 2011, briefing given by GRAC Chair Jeanne Hitchcock about the redrawn District: "It reminded me of a weather woman standing in front of the map saying, 'Here comes a cold front,' and in this case the cold front is going to be hitting Roscoe Bartlett pretty hard." *See* Exhibit 13.

47. Democratic Delegate Curt Anderson stated in an interview on October 17, 2011: "What we're doing is we are trying to get more, in terms of – currently we have two Republican districts and six Democratic Congressional districts and we're going to try to move that down to seven and one, with the additional Congressional district coming more out of Montgomery county and going into western Maryland that would give the Democrats more." *See* Exhibit 14.

48. Democratic Senator Jamie Raskin explained of the redistricting process on November 7, 2011: "Democrats control the redistricting process in Maryland" and with the Plan "hoped to pick up a seventh House seat through redistricting." *See* Exhibit 15.

49. House Speaker Michael Busch made the following statement regarding the District: "I think the numbers will show that it makes it pretty competitive, but I think the fact of the matter, that's reflective of the population growth in that area and the change that you see in voting behavior." *See* Exhibit 16.

50. Senate President Thomas V. Mike Miller made the following statements about the GRAC (*see* Exhibit 17):

a. "We recognized that Congressman Sarbanes lived in Baltimore County, but wanted to continue to represent the capital city Annapolis, and that was challenging."

b. "We recognized the fact that Congressman Ruppersberger, for example, is on the Intelligence Committee." "We tried to be sure that he represented both Aberdeen and Fort Meade, which was kind of challenging."

c. "We recognized that Congressman Hoyer lives in St. Mary's County and wants to represent Pax River, but also wanted to represent his alma mater, College Park, and that was challenging."

d. "If you are in public office, you don't want to give up a single precinct."

51. In a letter to the Governor dated October 20, 2011, Attorney General Douglas Gansler stated: "As indicated by those who participated in developing and adopting the redistricting plan, including the Redistricting Commission, the Governor, and the General Assembly, the boundaries of the newly adopted Congressional districts reflect a number of considerations, including a preference for joining communities of interest, keeping residents in their current districts, recognizing growth patterns, protecting incumbents, and partisan consideration." *See* Exhibit 18.

THE SIXTH DISTRICT AFTER THE PLAN

52. The Plan created eight congressional districts that were equal in population according to the adjusted 2010 Census data. The first seven of Maryland's congressional districts had an adjusted population of 721,529, and the Eighth District had an adjusted population of 721,528.

53. There were 145,620 Republican and 192,820 Democrat registered eligible voters in the District on October 21, 2012. On that date, Republicans comprised 33.32% and Democrats comprised 44.11% of registered eligible voters in the District. Exhibit 19.

54. Democrat John Delaney defeated Roscoe Bartlett in the election for representative to the United States Congress for the District in 2012 by a 20.9% margin.

55. Representative Delaney won re-election in 2014 with a 1.5% margin of the popular vote over his Republican challenger.

56. Representative Delaney won re-election in 2016 with, according to unofficial election results with some provisional and absentee ballots counted, a 14.4% margin of the popular vote over his Republican challenger.

EXHIBITS

57. Exhibit 1 reports the adjusted population of Maryland's eight congressional districts following the 2010 census under Maryland's 2002 redistricting map. The parties stipulate that the matters of fact asserted, stated, or depicted in Exhibit 1 are true and correct.

58. Exhibit 2 reports the number of eligible active voters in each of Maryland's eight congressional districts, and the respective political-party affiliations of those registered eligible voters, at various dates between 1990 and 2010. The parties stipulate that the matters of fact asserted, stated, or depicted in Exhibit 2 are true and correct.

59. Exhibit 3 is a true and correct copy of Caliper Corporation's 2010 promotional material for Maptitude for Redistricting. The parties stipulate that the exhibit is authentic.

60. Exhibit 4 depicts the changes made by the Governor to the map proposed by the GRAC on October 4, 2011. The parties stipulate that the matters of fact asserted, stated, or depicted in Exhibit 4 are true and correct.

61. Exhibit 5 depicts Maryland's eight congressional districts under the Plan. The parties stipulate that the matters of fact asserted, stated, or depicted in Exhibit 5 are true and correct.

62. Exhibit 6 is a true and correct copy of a PowerPoint presentation prepared by the GRAC to accompany its recommended plan. The parties stipulate that the presentation is authentic.

63. Exhibit 7 is a video depicting a September 13, 2011 interview with Senator Richard Madaleno. The parties stipulate that the video is authentic but make no stipulation as to the text preceding the video. The parties further stipulate that, as of the date of the filing of these stipulations, the video is available online at www.youtube.com/-watch?v=by_mclaHZv8.

64. Exhibit 8 is a video depicting a September 13, 2011 interview with Senator Richard Madaleno. The parties stipulate that the video is authentic but make no stipulation as to the text preceding the video. The parties further stipulate that, as of the date of the filing of these stipulations, the video is available online at www.youtube.com/-watch?v=7bTNNn6zLj8.

65. Exhibit 9 is a video depicting a September 13, 2011 interview with Senator Richard Madaleno. The parties stipulate that the video is authentic but make no stipulation as to the text preceding the video. The parties further stipulate that, as of the date of the filing of these stipulations, the video is available online at www.youtube.com/-watch?v=ddqQcOKzAT0.

66. Exhibit 10 is a true and correct copy of the article titled "Donna Edwards, Montgomery officials line up against redistricting map," written by Ben Pershing and Aaron C. Davis and published on October 11, 2011 in the *Washington Post*. The parties stipulate that the article is authentic.

67. Exhibit 11 is a true and correct audio recording of the Maryland State Senate floor proceeding held on October 18, 2011 audio file. The parties stipulate that the recording is authentic.

68. Exhibit 12 is a true and correct copy of the article titled "O'Malley's map easily wins House approval," written by Annie Linskey and John Fritze and published on October 19, 2016 in the *Baltimore Sun*. The parties stipulate that the article is authentic.

69. Exhibit 13 is a true and correct copy of the article titled "Redistricting panel targets Rep. Bartlett," written by Annie Linskey and published on October 3, 2011 in the *Baltimore Sun*. The parties stipulate that the article is authentic.

70. Exhibit 14 is a video depicting an October 19, 2011 interview with Delegate Curt Anderson. The parties stipulate that the video is authentic and that, as of the date of the filing of these stipulations, the video is available online at www.youtube.com/-watch?v=xPVKdKSgm9I.

71. Exhibit 15 is a true and correct copy of the opinion article titled "Fair representation for all," written by Jamie Raskin and Rob Richie and published on November 7, 2011 in the *Baltimore Sun*. The parties stipulate that the article is authentic.

72. Exhibit 16 is a true and correct copy of the article titled "Redistricting proposal would mean big changes for Western Maryland," written by Brian Witte and published on October 3, 2011 by the Associated Press. The parties stipulate that the article is authentic.

73. Exhibit 17 is a true and correct copy of the article titled "GOP, others find faults with proposed map," written by Annie Linskey and John Fritze and published on October 13, 2011 in the *Baltimore Sun*. The parties stipulate that the article is authentic.

74. Exhibit 18 is a true and correct copy of an October 20, 2011 letter from Maryland Attorney General Douglas Gansler to the Governor. The parties stipulate that the letter is authentic.

75. Exhibit 19 reports the number of eligible active voters and the respective political-party affiliations of those eligible active voters in each of Maryland's eight congressional districts on October 21, 2012. The parties stipulate that the matters of fact asserted, stated, or depicted in Exhibit 19 are true and correct.

76. Exhibit 20 is the audio recording of the October 17, 2011 Joint Hearing of the Senate Committee on Reapportionment and Redistricting and the House Rules Committee on Senate Bill 1. The parties stipulate that the recording is authentic.

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Appendix A - 1

SUMMARY REPORT - ADJUSTED 2010 CENSUS POPULATION COUNTS by EXISTING 2002 Congressional District (Senate Bill 805, May 6, 2002) TOTAL POPULATION by SINGLE RACE ALONE, UNADJUSTED HISPANIC ORIGIN and VOTING AGE (18+) POPULATION

Note: This report is based on Census 2010 P.L 94-171 Redistricting Data (Maryland) and is ADJUSTED for the use of Maryland Redistricting pursuant to the "No Representation Without Population Act" (SB 400\HB 496) passed into Maryland law in 2010. Maryland census data must be ADJUSTED for the purposes of creating congressional, state legislative, and local districting plans. Generally, the law requires that the census data must be adjusted to reassign Maryland residents in State & Federal correctional institutions to their last known address, and to exclude out-of-state residents in correctional institutions from redistricting.

Ideal Congressional District Population 2000: 662,061
Ideal Congressional District Population 2010: 721,529

Congressional District	2010 Census Total Population	Adjusted Total Population	Adjusted Person of One Race	Adjusted White Alone	Adjusted Black or African American Alone	Adjusted American Indian and Alaska Native Alone	Adjusted Asian Alone	Adjusted Native Hawaiian and Other Pacific Islander Alone	Adjusted Some Other Race Alone	Adjusted of Two or More Races	*Unadjusted Hispanic or Latino (of Any Race)	Adjusted Age 18 and Over Population
Maryland	5,773,552	5,772,231	5,607,823	3,388,618	1,690,360	20,419	318,848	3,167	208,824	164,708	470,832	4,419,267
Congressional District 1	744,275	743,067	720,841	616,587	83,055	1,829	15,762	369	9,249	14,226	25,756	572,931
Congressional District 2	700,893	703,824	683,250	409,318	237,599	2,795	25,940	457	13,147	20,574	34,981	538,131
Congressional District 3	719,856	716,808	696,372	491,212	143,582	2,360	37,966	533	20,709	20,436	48,832	563,890
Congressional District 4	714,319	713,674	692,333	183,321	405,208	2,942	49,483	369	51,015	23,341	101,103	535,642
Congressional District 5	767,369	768,464	743,610	392,052	286,841	3,443	32,220	451	28,603	24,854	60,279	582,239
Congressional District 6	738,940	731,713	718,023	644,122	42,981	1,737	18,201	292	10,712	13,690	31,237	556,721
Congressional District 7	690,770	684,091	647,949	218,189	374,878	1,934	44,488	246	8,194	16,142	22,951	510,878
Congressional District 8	728,124	728,588	699,143	410,105	123,236	3,359	96,788	460	65,195	29,445	145,493	556,835

Note: *No Hispanic designation was available for prisoners; therefore, the Hispanic totals were not adjusted.
The district totals include minor corrections in the assignment of census tabulation blocks to voting districts/precincts. The corrections to the P.L 94-171 U.S. Bureau of the Census file were made by Maryland Department of Planning and Department of Legislative Services.
The 2010 Population for Congressional and Legislative Districts are derived and based on the assignment of voting district/precincts to district as provided by Local Board of Elections and adjusted by Maryland Departments of Planning, Legislative Services and Public Safety and Correctional Services pursuant to the "No Representation Without Population Act."

MDP Report prepared by the Maryland Department of Planning, Clearinghouse, Redistricting, May 2011.

*As of 10/17/10

Counts by County

	Dems	Reps	Grn	Con	Lib	UNA	OTH	Subtotal
Allegany	16,606	19,827	130	12	119	5,305	449	42,450
Anne Arundel	145,707	120,970	840	76	1,114	62,255	139	331,101
Baltimore City	289,776	32,027	1,404	29	701	40,231	1,340	365,508
Baltimore County	290,996	128,638	1,326	80	1,499	64,706	5,620	492,869
Calvert	23,171	22,464	119	11	149	9,860	526	56,300
Caroline	7,407	7,481	36	5	89	2,949	120	18,037
Carroll	33,156	54,327	255	51	304	16,309	799	105,201
Cecil	24,530	22,853	143	25	208	11,218	860	59,837
Charles	50,767	24,687	131	19	197	13,609	579	89,989
Dorchester	10,392	6,982	26	2	41	2,185	150	19,778
Frederick	52,181	57,958	359	32	453	26,637	78	137,698
Garrett	4,994	11,379	39	3	48	1,786	186	18,434
Harford	62,100	63,101	274	37	512	22,310	719	149,053
Howard	86,045	55,017	440	41	571	34,159	1,810	178,083
Kent	6,170	4,478	42	3	36	1,621	135	12,482
Montgomery	324,195	123,253	1,432	59	1,364	122,587	541	573,431
Prince George's	403,582	46,641	710	55	732	43,061	22,719	517,500
Queen Anne's	11,059	13,982	64	8	95	4,290	207	29,705
Saint Mary's	24,832	23,454	150	14	191	10,246	526	59,213
Somerset	7,222	4,329	21	3	26	1,537	120	13,258
Talbot	10,166	11,073	51	7	79	3,615	315	25,306
Washington	31,340	37,027	219	20	234	14,347	89	83,276
Wicomico	25,366	19,785	113	9	151	8,178	668	54,268
Worcester	15,715	13,903	68	5	106	5,273	441	35,510
	1,957,279	925,814	8,392	606	8,964	526,274	39,136	3,466,267

Eligible Active Voters and Precinct Registers
Election: 2010 GUBERNATORIAL GENERAL ELECTION
Election Date: 11/2/10

*As of 10/17/10

Counts by Congressional District

	Dems	Reps	Grn	Con	Lib	UNA	OTH	Subtotal
Congr. Dist: 01	196,183	196,411	1,036	119	1,459	71,932	4,044	471,184
Congr. Dist: 02	241,628	92,085	866	76	1,140	54,999	3,056	393,852
Congr. Dist: 03	240,852	114,282	1,450	69	1,439	73,826	2,361	434,079
Congr. Dist: 04	314,380	50,596	593	48	836	51,745	10,459	428,457
Congr. Dist: 05	277,134	118,109	952	78	1,138	63,593	13,036	474,040
Congr. Dist: 06	159,715	208,024	1,159	122	1,353	73,262	2,044	445,679
Congr. Dist: 07	283,827	64,222	1,255	53	872	51,025	2,735	403,989
Congr. Dist: 08	243,560	81,885	1,081	41	947	88,092	1,401	417,007
	1,957,279	925,614	8,392	606	8,984	528,274	39,136	3,468,287

*As of 10/17/10

Counts by Legislative District

	Dems	Reps	Grn	Con	Lib	UNA	OTH	Subtotal
Legis. Dist: 01A	6,625	14,648	48	3	59	2,345	221	23,949
Legis. Dist: 01B	8,645	10,840	71	7	50	2,780	241	22,434
Legis. Dist: 01C	9,068	10,495	66	9	76	3,242	181	23,137
Legis. Dist: 02A	9,818	13,237	89	8	75	4,605	21	27,833
Legis. Dist: 02B	8,685	11,385	61	4	73	4,358	25	24,591
Legis. Dist: 02C	9,602	7,346	68	4	62	3,887	33	21,002
Legis. Dist: 03A	22,637	17,650	160	13	175	10,070	33	50,738
Legis. Dist: 03B	12,488	13,874	80	6	93	6,747	22	33,310
Legis. Dist: 04A	16,305	24,898	116	12	176	9,314	24	50,845
Legis. Dist: 04B	8,233	14,470	54	11	79	4,386	187	27,420
Legis. Dist: 05A	17,260	27,915	143	32	160	8,156	390	54,056
Legis. Dist: 05B	11,855	14,641	110	5	107	4,197	429	31,344
Legis. Dist: 06	38,160	14,410	122	17	207	8,467	711	62,095
Legis. Dist: 07	36,391	28,505	157	18	264	11,081	815	77,232
Legis. Dist: 08	41,778	21,969	197	12	239	9,849	857	74,901
Legis. Dist: 09A	25,473	24,691	156	13	185	11,398	663	62,579
Legis. Dist: 09B	8,913	13,960	66	9	77	4,496	223	27,744
Legis. Dist: 10	58,976	7,324	148	7	143	7,746	616	74,960
Legis. Dist: 11	55,482	17,738	172	9	213	10,972	943	85,529
Legis. Dist: 12A	24,201	14,827	148	10	177	7,755	555	47,673
Legis. Dist: 12B	15,570	5,856	88	8	83	5,127	296	26,808
Legis. Dist: 13	40,483	21,181	191	19	262	15,595	761	78,492
Legis. Dist: 14	41,372	21,163	154	4	176	15,061	70	78,000
Legis. Dist: 15	41,210	22,611	134	9	164	20,967	76	85,171
Legis. Dist: 16	45,923	16,578	154	4	174	17,247	54	80,134
Legis. Dist: 17	38,071	14,753	188	8	213	17,098	81	70,412
Legis. Dist: 18	42,285	12,063	191	11	155	13,292	55	68,052
Legis. Dist: 19	40,334	15,856	181	8	148	13,550	68	69,905
Legis. Dist: 20	41,664	6,730	314	5	166	11,070	56	60,005
Legis. Dist: 21	40,762	12,164	159	6	235	10,134	2,948	66,408
Legis. Dist: 22	39,534	6,002	194	6	110	5,789	3,013	54,648

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*As of 10/17/10

Counts by Legislative District (cont'd)

	Dems	Reps	Grn	Con	Lib	UNA	OTH	Subtotal
Legis. Dist: 23A	36,624	9,514	69	15	86	5,276	2,899	54,483
Legis. Dist: 23B	24,904	3,199	29	2	35	2,586	1,161	31,916
Legis. Dist: 24	61,355	2,328	47	5	61	4,344	2,651	70,791
Legis. Dist: 25	63,076	3,393	42	8	61	4,562	2,688	73,830
Legis. Dist: 26	64,517	4,438	47	8	66	4,884	2,987	76,947
Legis. Dist: 27A	47,984	9,859	68	3	90	5,360	2,330	65,694
Legis. Dist: 27B	11,995	10,661	49	6	74	4,895	262	27,942
Legis. Dist: 28	49,853	23,866	127	19	189	13,285	557	87,896
Legis. Dist: 29A	11,919	11,119	57	3	62	4,409	256	27,825
Legis. Dist: 29B	11,640	10,850	80	11	120	5,288	257	28,046
Legis. Dist: 29C	10,046	10,450	69	5	77	4,541	217	25,405
Legis. Dist: 30	35,153	29,691	254	15	314	15,817	27	81,271
Legis. Dist: 31	33,151	26,264	161	22	207	13,040	34	72,879
Legis. Dist: 32	36,498	22,104	183	18	253	13,927	33	73,016
Legis. Dist: 33A	21,956	26,375	150	12	204	11,256	20	59,973
Legis. Dist: 33B	11,828	13,221	68	4	80	5,454	17	30,672
Legis. Dist: 34A	24,019	13,785	85	18	168	7,555	262	45,892
Legis. Dist: 34B	10,965	11,707	68	11	85	5,066	382	28,284
Legis. Dist: 35A	19,689	28,218	108	9	171	7,641	231	56,067
Legis. Dist: 35B	10,588	12,676	56	6	94	4,193	137	27,750
Legis. Dist: 36	33,774	32,599	195	26	286	13,347	860	81,087
Legis. Dist: 37A	13,637	5,505	42	3	59	2,872	196	22,314
Legis. Dist: 37B	22,930	24,045	100	14	147	7,652	578	55,466
Legis. Dist: 38A	11,813	8,924	42	5	52	3,225	272	24,333
Legis. Dist: 38B	24,512	21,720	116	8	165	8,547	713	55,781
Legis. Dist: 39	33,336	13,899	146	10	168	14,302	91	61,752
Legis. Dist: 40	47,843	3,736	417	5	125	6,354	218	58,498
Legis. Dist: 41	54,708	4,883	131	3	85	5,914	191	65,895
Legis. Dist: 42	36,874	21,479	323	7	274	9,754	888	69,599
Legis. Dist: 43	52,236	4,730	312	2	88	6,362	204	63,934
Legis. Dist: 44	44,381	3,713	159	6	83	5,546	224	54,112

*As of 10/17/10

Counts by Legislative District (cont'd)

	Dems	Reps	Grn	Con	Lib	UNA	OTH	Subtotal
Legis. Dist: 46	49,290	4,699	138	7	97	5,146	213	59,590
Legis. Dist: 46	41,518	10,286	247	6	223	10,909	290	63,479
Legis. Dist: 47	35,084	2,918	97	7	59	4,184	2,132	44,481
	1,957,279	925,614	8,392	606	8,984	528,274	39,136	3,468,287

Counts by Age, Gender, and Party

*According to Maryland State Law, voters who will be 18 and eligible to vote by a General Election are eligible to Vote in the related primary.
**Confidential Voters are not included in Age Range Statistics

		Female						Male						Unspecified					
	TOTAL	17 & below	18-24	25-44	45-65	65 & above	Subtotal	17 & below	18-24	25-44	45-65	65 & above	Subtotal	17 & below	18-24	25-44	45-65	65 & above	Subtotal
Null	2	0	0	0	1	0	1	0	0	0	1	0	1	0	0	0	0	0	0
DEM	1,867,026	212	100,500	374,808	459,713	217,933	1,153,166	199	78,736	249,474	328,505	148,232	803,116	1	213	262	210	57	743
REP	926,481	109	36,035	140,337	188,064	86,860	451,245	121	39,896	149,800	206,756	76,356	471,933	0	85	106	91	32	314
GRN	8,391	3	671	1,911	740	124	3,449	3	947	2,824	1,186	175	4,935	0	3	1	1	0	5
CON	606	0	35	83	56	16	172	2	86	177	140	30	434	0	0	0	0	0	0
LIB	8,982	2	863	1,679	646	72	3,262	6	1,294	2,970	1,306	182	5,758	0	1	5	5	1	12
UNA	528,263	115	38,468	116,897	80,376	19,475	255,331	100	39,154	120,553	90,954	21,670	272,431	1	114	183	117	46	461
OTH	39,136	3	1,044	7,369	7,351	2,567	18,334	3	963	8,104	6,866	2,828	20,764	0	5	3	3	0	11
TOTAL	3,467,887	445	177,841	643,081	738,972	328,872	1,886,991	401	161,080	533,702	634,737	249,453	1,679,343	2	421	560	427	136	1,546

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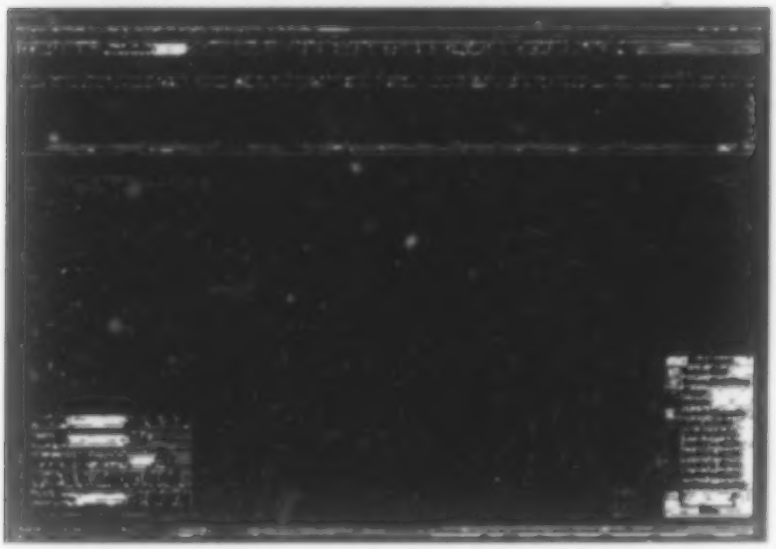


Maptitude for Redistricting is the professional tool for political redistricting. It is used by a super-majority of the state legislatures, political parties, and public interest groups. Designed with the help of redistricting professionals, state legislatures, and political parties, Maptitude for Redistricting has the features redistricters want and is easy to learn and use.

Caliper Corporation has continued to improve Maptitude for Redistricting. The newest version represents a major leap forward with advanced features, the latest Census geography and data, one-button conversion of existing plans to the latest TIGER geography, new and enhanced reports, a state-of-the-art interface, open access to industry-standard file formats, interoperability with Google Maps and Google Earth, an updated manual, video tutorials, context-sensitive Help, web solutions, and more. Whether you are a current user or new to Maptitude for Redistricting, you will welcome this new version of the software as you prepare for the upcoming round of redistricting.

Maptitude for Redistricting includes all of the features in Caliper's Maptitude Geographic Information System (GIS) software. Maptitude is full-featured mapping and GIS software that has established new standards for performance and value for over a decade. It provides a complete set of mapping and spatial analysis functions, sophisticated geocoding, tools for complex data manipulation, and a large collection of nationwide geographic data.

Maptitude for Redistricting Key Features:

- Create districts using any level of geography
- Compute control field totals and deviations
- Select any number of summary data fields and compute totals and percents
- Display the plan as district boundaries or a thematic map
- Display the plan statistics in a scrollable data window
- Produce over 35 standard reports; add your own and customize ours
- Export the plan to an equivalency file in industry standard file formats
- Import plans from other GIS software
- Merge sub-plans
- Compute measures of compactness
- Verify completeness and district contiguity, and zoom to problem areas
- Update historic election results to new political boundaries
- Create single-district map layouts and map books
- Save plans in an Internet-compatible format
- Complete support for Google Maps and Google Earth
- Includes all TIGER geographic layers with PL94-171 population and race data attached

Maptitude for Redistricting

Includes a Data DVD for your jurisdiction containing all of the geographic layers from the U.S. Census TIGER map files with the official PL94-171 population, race, Hispanic ethnicity, and voting age data attached:

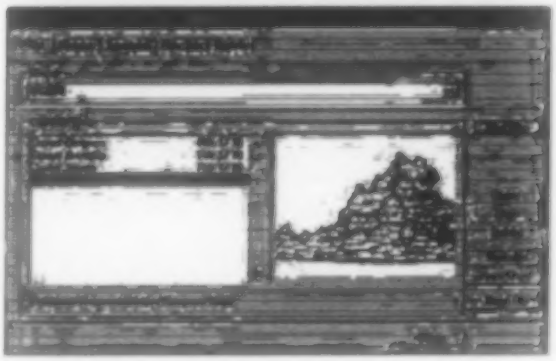
- Census blocks
- Census block groups
- Census tracts
- Upper and lower chamber state legislative districts
- Congressional districts
- State boundary
- County boundaries
- Incorporated place boundaries
- Minor Civil Division (MCD) boundaries
- Elementary, secondary, and unified school district boundaries
- Indian reservations
- Voting districts
- Point and area landmarks
- Water landmarks
- Utility lines
- Railroads
- Street segments
- All line features from Census TIGER/Line® files
- In addition to the PL94-171 redistricting data, you will find Department of Justice definitions of race, special calculations such as "Any Part Black," counts of persons reporting multiple races, and more.

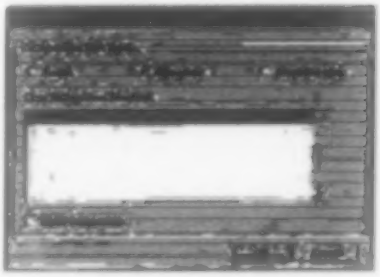
Maptitude for Redistricting includes everything you need to build and analyze redistricting plans.

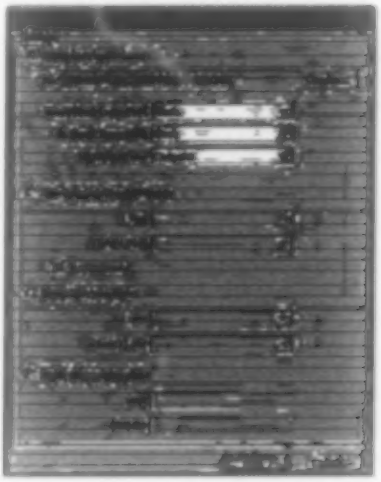
The Maptitude for Redistricting **Plan Manager** serves as your redistricting control center. Use it to organize plans, create any number of plan types (e.g., congressional, state house, senate, school district), and save them as Plan Templates. To create a plan, simply choose a template or an existing plan and enter a new name. Organize plans in libraries by plan type, user, security access, etc. Locate, copy, change settings, and password-protect plans. Group similar plans into plan sets and define report sets for batch printing.

The custom menu system and redistricting toolbox let you:

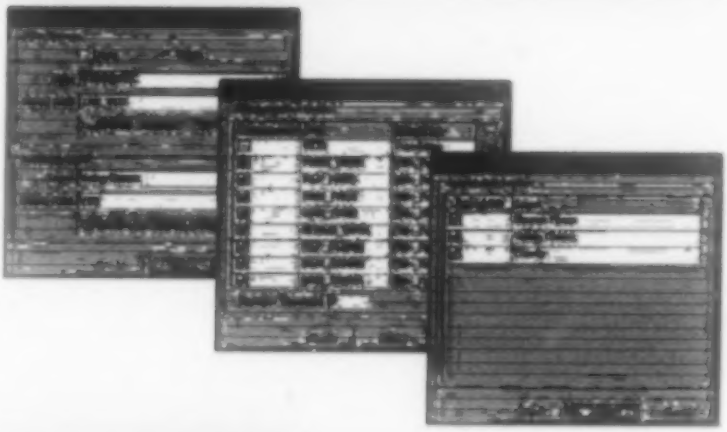
- **Create a new plan** from a map, a template, or an existing plan. You only have to enter the settings once. From then on, you can create a new plan by picking the appropriate template or existing plan.
- **Import and merge plans** created by Maptitude for Redistricting or other redistricting software. You can also automatically convert a plan based on a previous version of TIGER geography to a plan using the latest version of TIGER geography. There is no need to export the old plan to an equivalency file and then import the equivalency file into the new plan. This makes it very easy to update your old plans to the most recent and most detailed Census geography.







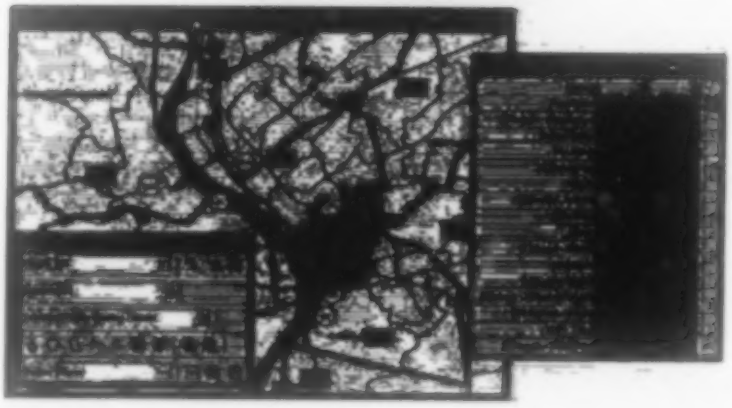
- **Add political data and election results** (usually reported at the precinct or VTD level of geography), and use the Disaggregation/Aggregation Wizard to quickly disaggregate the data down to Census Block geography and aggregate it up to all higher levels of geography. You can join in tables of data or overlay area layers (e.g., historic precincts) that contain the data.



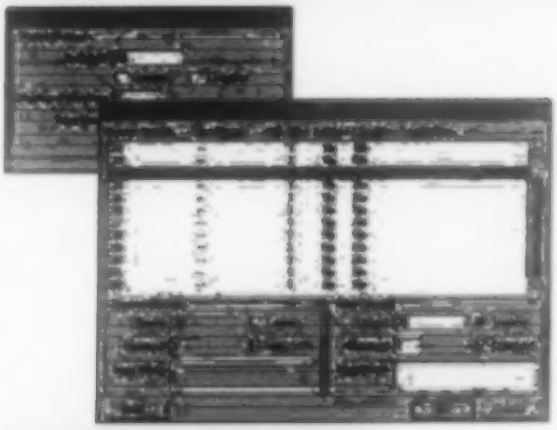
- **Designate the control field**, number of districts, ideal value, and summary fields, and set other plan properties including plan type, creation date, password protection, and backup strategy.

- **Include any number of data fields in the same plan**; one-button toggle between field sets lets you display only the data of interest at any particular time.

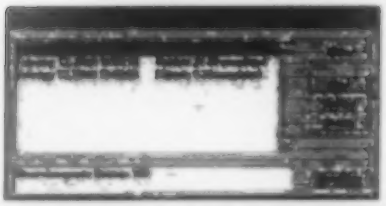
- **Add areas to a target district** using feature selection tools. Select by pointing, by circle, by lasso, by line, or by attribute values. Select features in any geographic layer, such as Census block, voting district, county, town, or school district. Limit the selection to unassigned areas, one district, or the entire jurisdiction. As you add areas to a district, Maptitude for Redistricting redraws the district boundaries and updates the control and summary fields to reflect changes to the current plan.



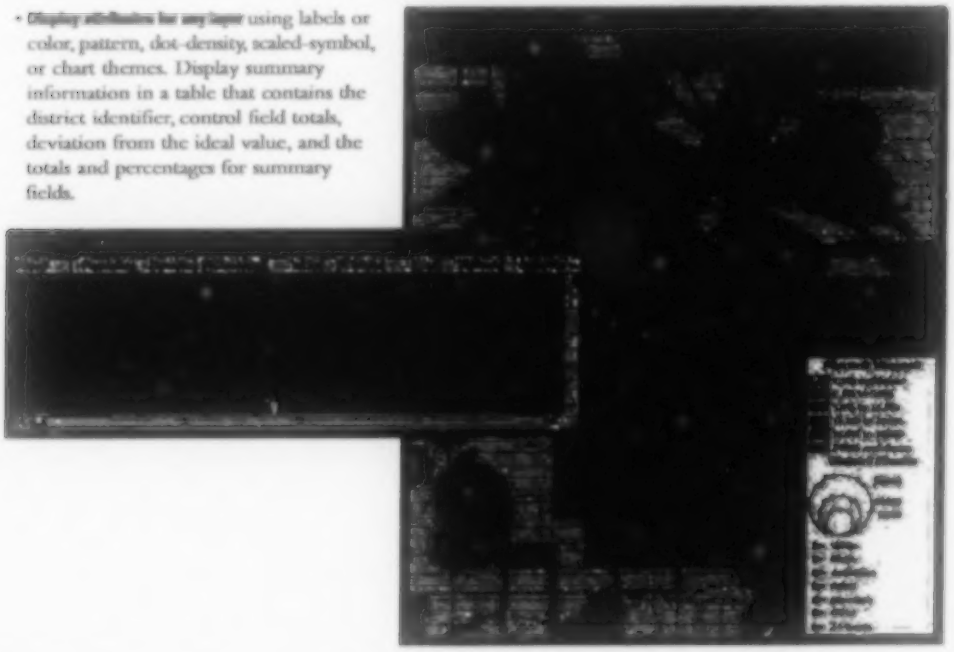
- **Easily manage districts:** rename districts, handle multi-member districts, assign both an ID and a long name to districts, lock districts, and mark them completed.

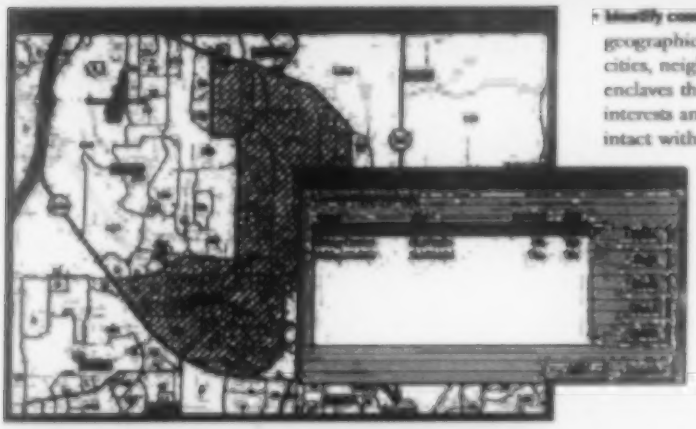


- **Capture the current status of a plan** as a snapshot. Each plan can have one or more snapshots organized by date and time under the same plan name. Return to any snapshot, and use it as a departure point in the evolution of the plan or as the starting point for a new plan.



- **Display attributes for any layer** using labels or color, pattern, dot-density, scaled-symbol, or chart themes. Display summary information in a table that contains the district identifier, control field totals, deviation from the ideal value, and the totals and percentages for summary fields.



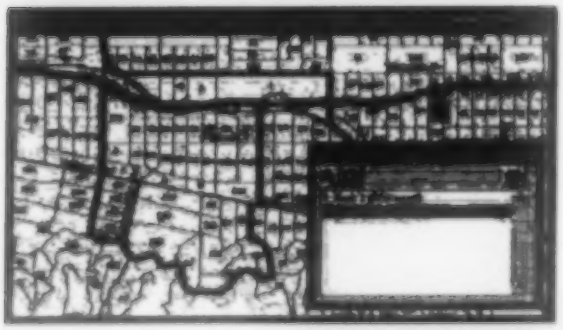


• **Identify communities of interest,** geographically cohesive areas such as cities, neighborhoods, or racial or ethnic enclaves that tend to have similar interests and vote as a bloc. Keep them intact within the same district, and lock them so that you cannot accidentally reassign them to different districts. Alternatively, for communities that you do split into multiple districts, run the Communities of Interest reports to calculate the total and percent population of the community in each district.

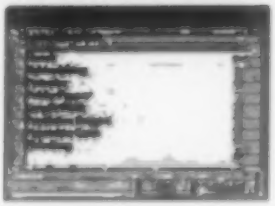
"(Previously) we did redistricting with software and hardware that was bulky, difficult to use, and extraordinarily expensive. Today, Maptitude software provides us far more flexibility, ease of use, and capability at a fraction of the cost. Following redistricting, we will be able to continue to use Maptitude for GIS/data applications ranging from school bus transportation to land use development issues."

Russell T. Larson
Delaware Controller General

• **Easily find unassigned areas** and assign them to the correct district. Automatically assign unassigned areas that are completely surrounded by the same district.



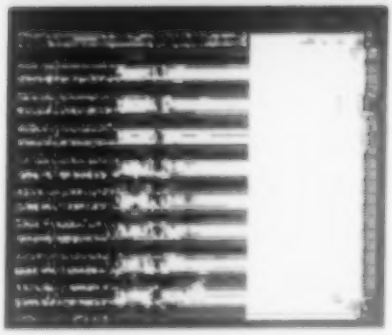
• **List all noncontiguous portions of a district,** zoom to each one, and easily assign them to the correct district.

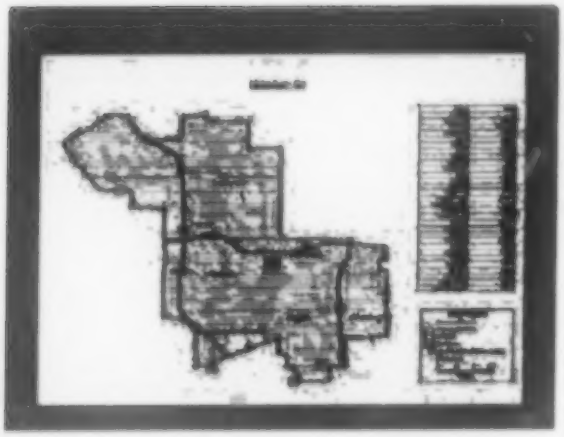


• **Compute measures of compactness** to assess or defend the districts in a plan. Maptitude for Redistricting computes all of the recognized measures of geographic compactness including the Reock, Schwartzberg, Perimeter, Polsby-Popper, Length-Width, Population Polygon, Population Circle, and Ehrenburg metrics.

"It's light years ahead. The software can do so much more, so much more quickly."
Karl Aro
Director, Maryland Department of Legislative Services

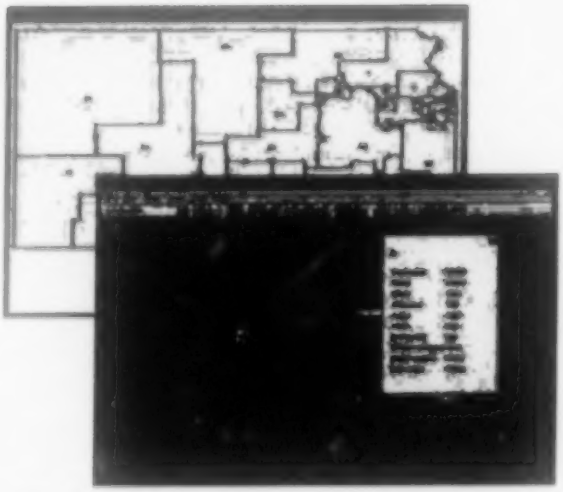
• **Export a plan to standard equivalency file** formats that can be read by other redistricting software and the Department of Justice. This is the best way to transfer a plan because every Census block is assigned to a district and there is no possibility for a mis-assignment.



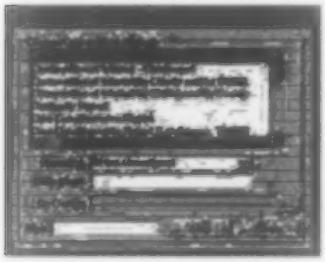


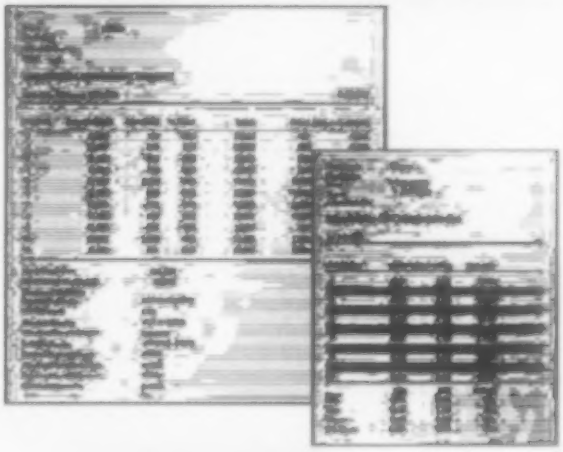
• **Create a map book** containing layouts for some or all of the districts. Display either a single district or the district and all adjoining districts, labeled with the district name, plan name, plan type, administrator, date created, and date last modified based on your settings.

• **Integrate your plans with Google Maps** and Google Earth. Save your plans in the Google format (.KML or .KMZ) and add them to Google Maps or Google Earth. Use the built-in Google Earth toolbox to display Google Earth in Maptitude as part of your plan or display your plan in Google Earth.



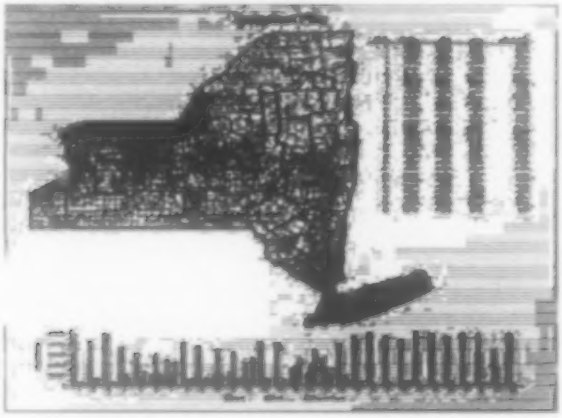
- **Generate and print over 35 reports** including population summary, error check, political subdivision splits, incumbents, plan statistics, plan components, plan comparison, communities of interest, measures of compactness, and more. Create custom reports and add them to the report menu.





- **Group reports together into report sets** and save considerable time by producing the set of reports with the click of a button. Since report sets include the settings for the reports (e.g., additional fields to report on), they eliminate potential errors in the settings. The same report can appear in multiple report sets with different settings, and you can create as many report sets as necessary.

- **Print a completed plan** using page layouts that combine maps, data tables, and charts.



Works with Most Other GIS and Mapping Software

Interoperates with ArcGIS, Google Earth, Oracle Spatial, and MapInfo.

Maptitude supports over 50 file types and more than 100 GIS and CAD file formats allowing you to easily migrate your existing geographic data. You can map ESRI Shapefiles, Geodatabases, MapInfo TAB files, and Oracle Spatial tables directly, or use the built-in translators to import geographic data from a variety of other software packages and public sources. This extensive library of importers and exporters is one of the largest in the industry and comes at no additional charge. You can export plans (geography and data) to these other formats if your GIS department uses one of these other products.

You can use raster images such as satellite or aerial photographs directly in your maps. Maptitude includes toolbars for quickly accessing online images from TerraServer-USA and Google Earth. You can use the images as a means of reference or in conjunction with the redistricting tools to draw your districts.

Easy to Learn and Use

"The difference between Maptitude and similar products is that it is shockingly easy to use."
Trudy Walsh
Government Computer News

Maptitude for Redistricting includes online help and detailed manuals packed with step-by-step instructions and tutorials. The Plan Manager leads you through the process of creating your first plan and speeds the creation of all additional plans. Other wizards help you create maps, display data using meaningful themes, and geocode information based on street address. In addition, Caliper offers training at your site or at our headquarters in Newton, Massachusetts.

Complete Organizational Solution

With the Maptitude for Redistricting Plan Manager you can easily manage an unlimited number of plans stored on a computer network. You can quickly find a plan by type, creator, date, key word, etc. The Plan Manager lets you distribute plans for viewing and perform plan management functions across your organization. Data and plans can be stored on individual machines or on one central server with access controlled by both Maptitude for Redistricting and the network administration software.

System Requirements

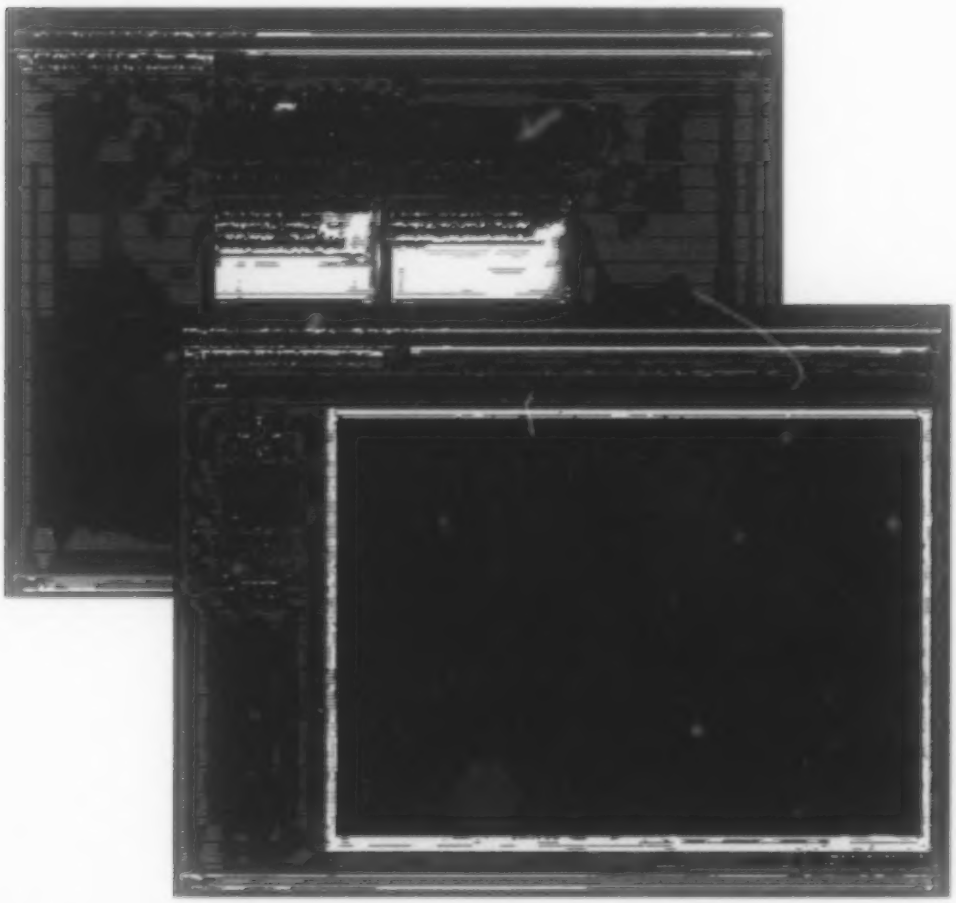
Maptitude for Redistricting runs on Microsoft Windows XP, Vista, or Windows 7. Minimum hardware includes a DVD-ROM drive and 1GB of memory. Disk space requirements vary by jurisdiction (200MB–1GB).

Maptitude Web Plan Publisher™

Publish Your Plans on the Internet

Maptitude for Redistricting lets you save your plans (maps, data tables, charts, layouts, and reports) as JPEG, PNG, and HTML files for static Web publishing. Caliper software also lets you add your plans to Google Earth or Google Maps and add Google Earth images to your plans in Maptitude.

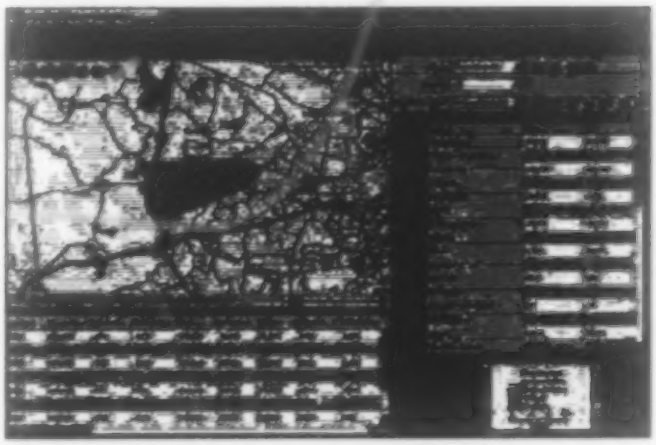
If you are looking for a more sophisticated presentation of your plans, Caliper Corporation's Maptitude Web Plan Publisher software makes it easy to publish your plans as interactive mapping applications on the Web. For example, users can locate their address on the map, pan and zoom, query the district assignments, and display tables of data from their browser.



Maptitude Online Redistricting™

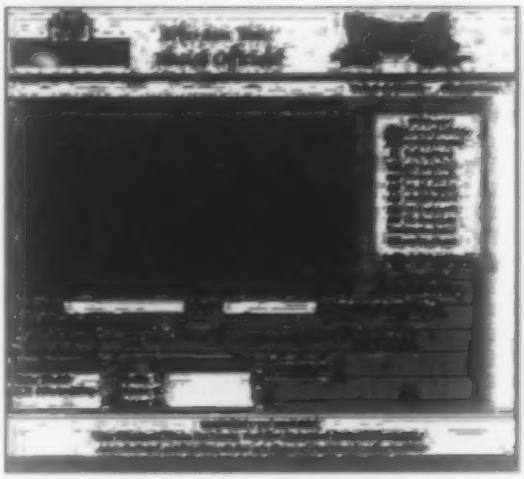
Maptitude Online Redistricting is web-based redistricting software designed for governments or organizations that want to provide their members or the general public with a means to draw and report redistricting plans. Because the PC and online versions share common file formats, plans developed online can be electronically submitted to the central redistricting office, opened in the PC-based software, and analyzed to the full extent as if they had been created using the PC-based software.

The Maptitude Online Redistricting screen contains the plan map, a dataview listing the existing districts and their statistics, and a dataview of pending changes based upon the user's current actions. The redistricting toolbox is similar to the toolbox in the desktop version, and the user can zoom, pan, and query the map using the mapping tools.



Custom Website Development

Caliper has extensive experience creating sophisticated websites for a number of large government organizations including the U.S. Census Bureau, the U.S. Department of Transportation, the Small Business Administration, and several state legislatures. Caliper can create custom web applications for your organization, such as "Who are your elected officials?" In this example, the user enters an address and the map zooms to that location and lists the elected officials with links to their websites.



Our Clients (Partial List)

Maptitude for Redistricting is used by a super-majority of the state legislatures, both national political parties, many state political parties, county and regional governments, city and local governments, elected officials, educational institutions, and public interest groups. For a more complete list, visit www.caliper.com/redistricting/clients.htm

National Organizations:
Democratic National Committee
Department of Justice, Civil Rights Division
National Committee for an Effective Congress
National Republican Congressional Committee
Republican National Committee

State Organizations:
Alabama Democratic Party
Alabama House Majority
Alaska Division of Elections
Arizona House of Representatives
Arizona Independent Electoral Commission
Arizona Redistricting Commission
California Assembly Rules Committee
California Governor's Office
California Legislative Data Center
California Senate Minority Reapportionment
California Senate Office of Research
California State Assembly
Colorado Department of State
Colorado Governor's Office
Colorado House of Representatives
Colorado Legislative Council
Colorado Reapportionment Commission
Delaware Commissioner of Elections
Delaware Legislature
District of Columbia Republican Party
Georgia General Assembly
Georgia Office of Planning and Budget
Georgia Redistricting Services
Idaho Legislative Services
Illinois House Republican Caucus
Illinois Senate Republican Caucus
Kansas Legislative Research Department
Kentucky Legislative Research Commission
Louisiana House of Representatives
Louisiana Senate
Maine Judicial Center
Maine Legislature
Maryland Department of Legislative Services
Maryland General Assembly
Maryland Office of Planning
Massachusetts House of Representatives
Massachusetts Republican Redistricting Taskforce
Massachusetts Senate
Michigan Democratic Party
Minnesota DFL
Minnesota Governor's Office
Minnesota Legislative Coordinating Commission
Minnesota Office of Planning
Minnesota Secretary of State
Minnesota Senate
Minnesota Supreme Court
Mississippi Community Policy Research
Mississippi Joint Reapportionment Committee
Missouri House of Representatives
Missouri Office of Administration
Missouri Office of Mgmt., Budget, & Planning
Missouri Senate
Nebraska Republican Party
Nevada Republican Party
New Hampshire GCIS
New Jersey Office of Legislative Services
New Mexico Republican Party
New York Empire State Development
New York Assembly Democratic Majority
New York Assembly Republican Caucus
New York Governor's Office
New York Office of Technology
New York Senate Majority
New York Senate Minority
New York State LATFOR
North Carolina General Assembly
North Dakota Legislative Council
Ohio Secretary of State
Oklahoma Governor's Office
Oklahoma Senate
Pennsylvania House Democrats
Pennsylvania Senate Democrats
Puerto Rico Supreme Court
South Carolina House of Representatives
South Carolina Senate
Tennessee Attorney General
Tennessee General Assembly
Tennessee Office of Legal Services
Texas Comptroller of Public Accounts
Texas General Land Office
Texas Legislative Council
Utah Republican Party
Vermont Legislative Council
Virginia Democratic Caucus
West Virginia Legislature
Wyoming Legislature

County & Regional Organizations:
Acadiana LA Regional Development District
Alabama Assoc. of County Commissioners
Alameda County CA Community Development
Alamosa County CO, County Clerk
Anne Arundel County MD
Anoka County MN
Barton County KS
Blount County AL, County Commission
Boone County WV Commission
Brooke County WV, County Commission
Butte County CA
Calvert County MD
Capitol Region LA Planning Commission
Cerro Gordo County IA
Chaffee County CO
Champaign County IL County Clerk
Clark County NV Manager's Office
Cobb County GA Elections
Comal County TX
Contra Costa CA Water District
Coweta County GA
Cumberland County ME
Elbert County CO
Forsyth County GA
Glenn County CA, Elections Department
Grand County CO
Hardee County FL
Hardin County KY
Harris County TX Tax Office
Hennepin County MN
Hood County TX
Jackson County MO Election Board
Jefferson County CO Clerk and Recorder
Johnson County KS
Kanawha County WV
Kent County DE
Kent County MI
Lincoln County MT
Los Angeles CA Superior Court
McCracken County KY
Miami-Dade County FL County Comms.
Mobile County AL Engineer's Office
Nassau County NY
Navajo Nation AZ
New Castle County DE
Nowata County OK, Clerk
Pasco County FL Supervisor of Elections
Pierce County WA, Elections
Polk County FL Supervisor of Elections
Putnam County FL Supervisor of Elections
Ramsey County MN
Saint Louis County MN
Saint Lucie County FL Supervisor of Elections
San Benito County CA
San Diego County Data Processing
Sanford/Lee County NC, County Commission
Santa Barbara County CA
Santa Cruz County CA, ISD Dept.
Stillwater County MT GIS
Summit County NJ Board of Elections
Sumter County FL Supervisor of Elections
Tate County MS
Trinity County CA
Trinity County TX
Vigo County IN
Westchester County NY

City Governments:
Albany NY, Common Council
Baltimore MD, City Council
Baltimore MD, Mayor's Office
Bloomington MN
Buffalo NY, City Clerk
Cambridge MD Commissioners
Champlain MN
Columbia MO
Dallas TX
Denver CO, Election Comm.
Jefferson MO
Lake Charles LA
Los Angeles CA Council
Minneapolis MN Metropolitan Council
New York NY City Council
New York NY Redistricting Comm.
Pasadena CA
Pensacola FL, Planning & Development
Phoenix AZ
San Francisco CA, Department of Elections
San Leandro CA
Temple TX
Villages FL
Westport CT

Educational Institutions:
Alabama State U. Ctr. for Leadership & Public Policy
Benedict College
Claremont McKenna College Rose Institute
Cronkite School of Journalism
CUNY Graduate Center
CUNY, Medgar Evers College
George Mason University
Georgia Institute of Technology
Georgia State University
Mississippi State University Stennis Institute
Princeton Univ. Woodrow Wilson School
Queens College
Rice University
UCLA, Dept. of Urban Planning
University of Florida
University of Georgia, Redistricting Services
University of Pennsylvania Law School

Other Redistricting Services

Caliper provides database development, hands-on training, software customization, web design, telephone support, on-site support, priority support, and other related consulting services on a time and materials basis.

About Caliper

Caliper Corporation is a leading developer of transportation and Geographic Information System (GIS) software and applications. Caliper software is used by more than 70,000 users in over 70 countries. Caliper is the developer of the U.S. Census Bureau's MAF/TIGER Partnership Software that has been used by Census Bureau partners to update the geography for the 2010 Census.

Ordering & Information

Please contact Howard Simkowitz, Director, Government Services, at 202-652-1024 or HSIMKOWITZ@CALIPER.COM for pricing and information. There are discounts for quantity purchases and for clients from the 2000 redistricting cycle. You can download an order form at WWW.CALIPER.COM/REDISTRICTING or call Caliper at 617-527-4700 to place your order.

What Others Have to Say

Maptitude for Redistricting was featured in a December 2003 *New Yorker* article, "The Great Election Grab," by Jeffrey Toobin.

> [Assistant professor of law and political science Nathaniel] Persily zeroed in even more closely, and a little donkey popped up inside one of the census blocks. "That's where the local congressman lives, a Democrat," he explained. "We have little elephants for the Republican incumbents." [Maptitude for Redistricting] seemed easy to use, justifying the boast, on the software company's Web site, that you could "start building plans thirty minutes after opening the box."

Maptitude for Redistricting was featured in a April 24, 2001 *Wall Street Journal* article, "Software Makes Redistricting Easier, Accessible," by Will Pinkston. Nearly everyone interviewed for the article uses Maptitude for Redistricting.

> In New Jersey, when a committee of five Republicans and five Democrats chosen by their parties couldn't agree on how to redraw the state's legislative boundaries, the state supreme court tapped Larry Bartels, a Princeton University professor, to break the impasse. After 10 days locked away in a hotel with the two sides, the professor emerged with a resolution: an entire state redistricting map drawn on a laptop computer, using [Maptitude for Redistricting].
>
> Cheaper software is letting independent consultants in the game, too. George Meier, former staff director of Florida's House reapportionment committee, had to requisition $600,000 in computer software and equipment in 1991 to draft new electoral district boundaries. This year, as a redistricting expert freelancing for cities and counties in Florida [using Maptitude for Redistricting], his overhead is considerably lower: He got everything he needs loaded onto his Dell laptop for under $4,000. And Baltimore civil-rights attorney Samuel L. Walters is using [Maptitude for Redistricting] to pitch his expertise to minority groups and local governments. Mr. Walters, who worked for the NAACP during 1991's redistricting, says he expects to quickly recoup his costs.

The Rose Institute at Claremont McKenna College conducts and publishes research primarily on California government and politics. Here is what the Rose Institute has to say about Caliper Corporation in its 2005 report, "Restoring the Competitive Edge: California's Need for Redistricting Reform and the Likely Impact of Proposition 77"

> [Caliper Corporation's] longstanding and generous support makes possible all of the Rose Institute's demographic, redistricting, and geographic information systems (GIS) research. Their outstanding, powerful and easy-to-use Maptitude software enables us to train our students up from GIS novices to expert users in only a few hours, and the software's extensive analytic capabilities provide the service and power needed for our work.

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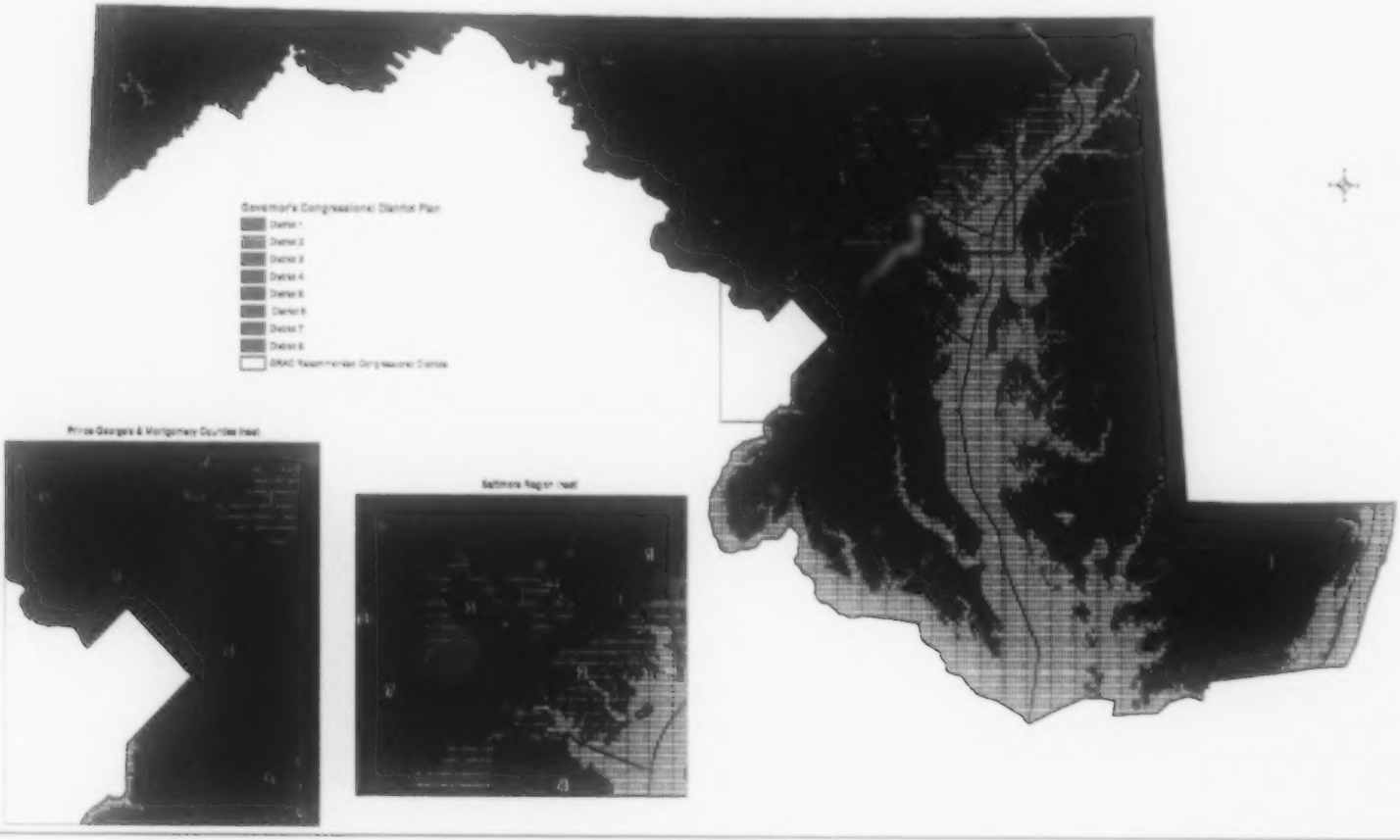
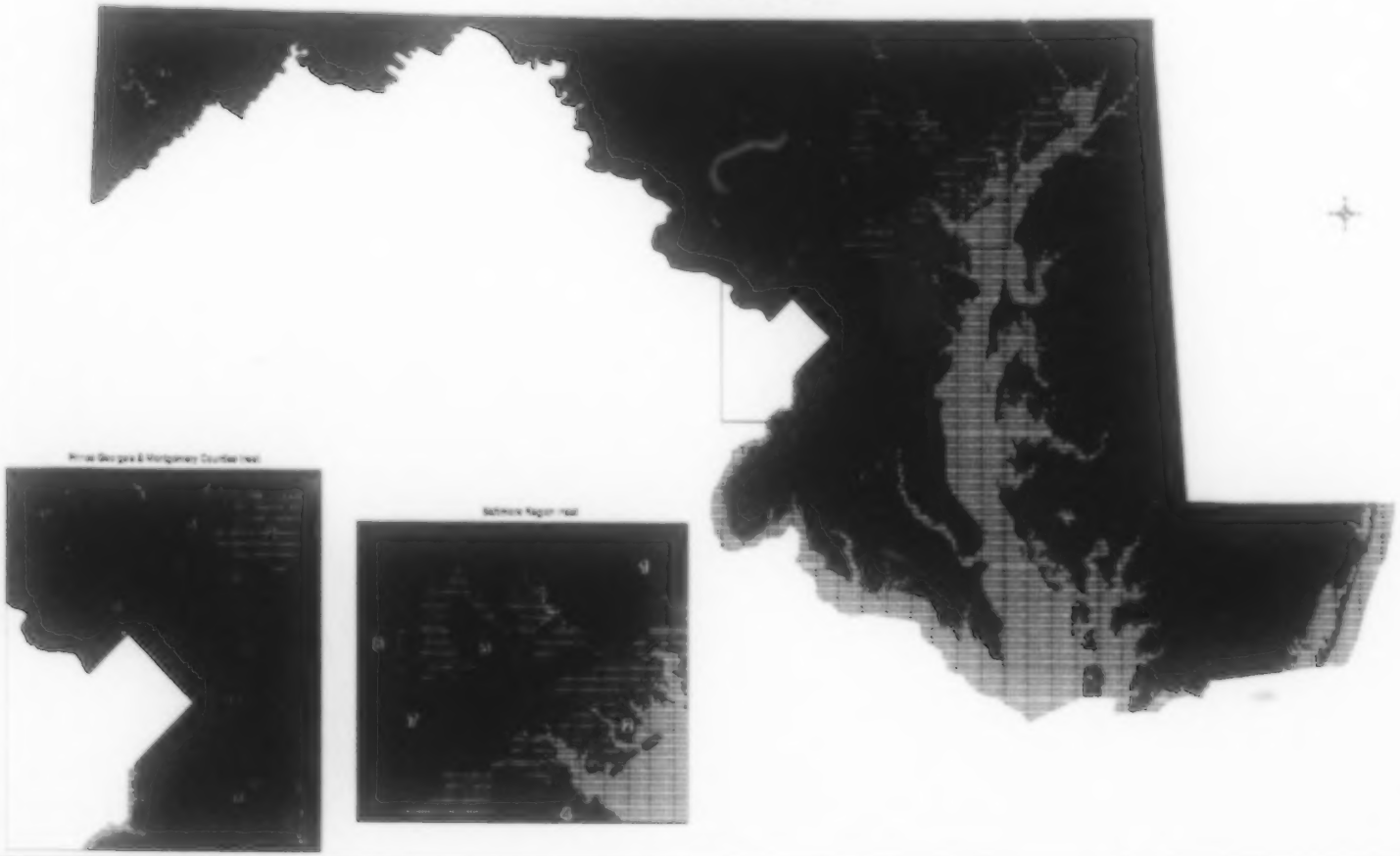
Governor Martin O'Malley's 2011 Congressional District Plan
& 2011 Governor's Redistricting Advisory Committee Recommended Congressional District Plan
October 15, 2011



Maryland 2011 Congressional Districts

Senate Bill 1

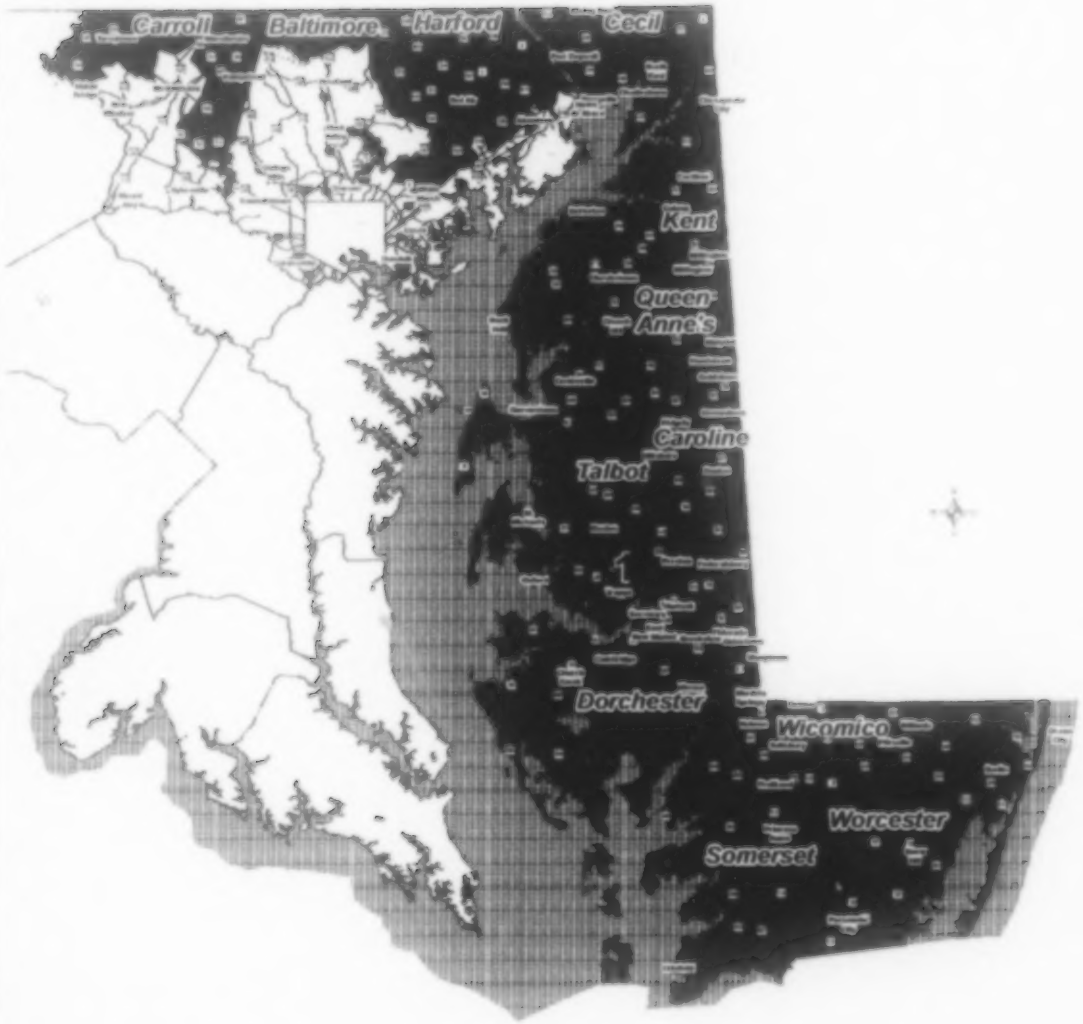
October 20, 2011



Maryland 2011 Congressional District 1

Senate Bill 1

October 20, 2011



Maryland 2011 Congressional District 2

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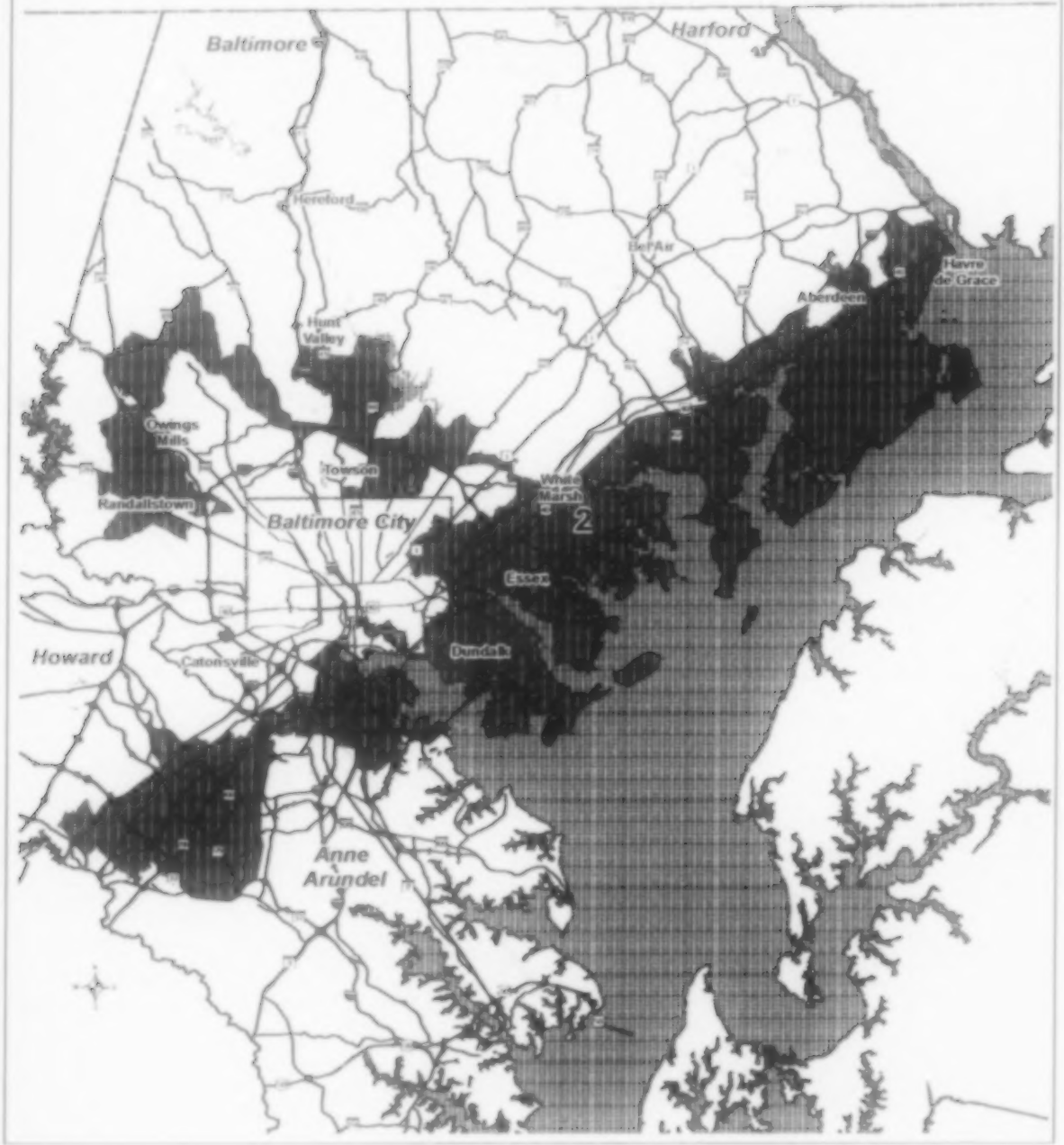
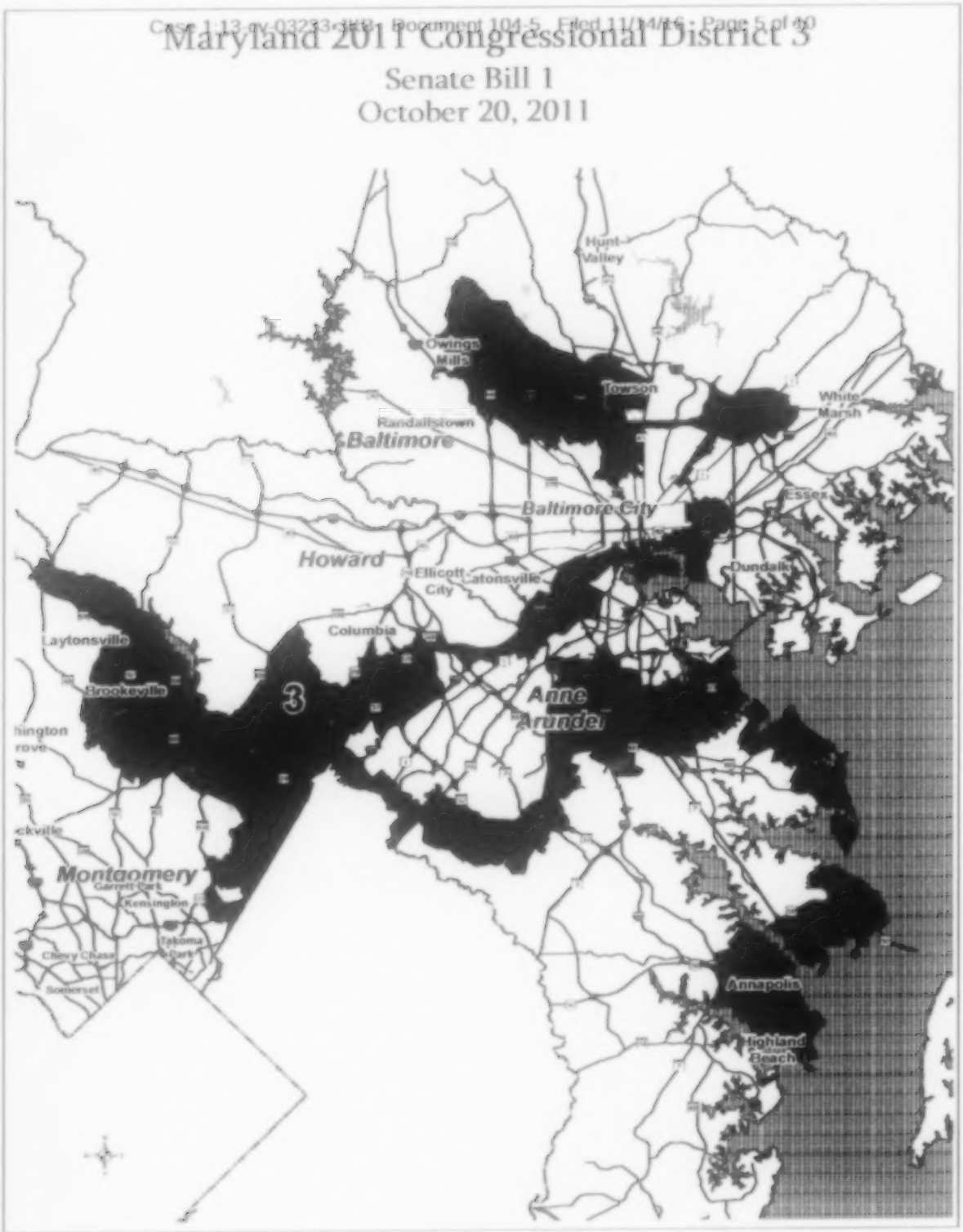
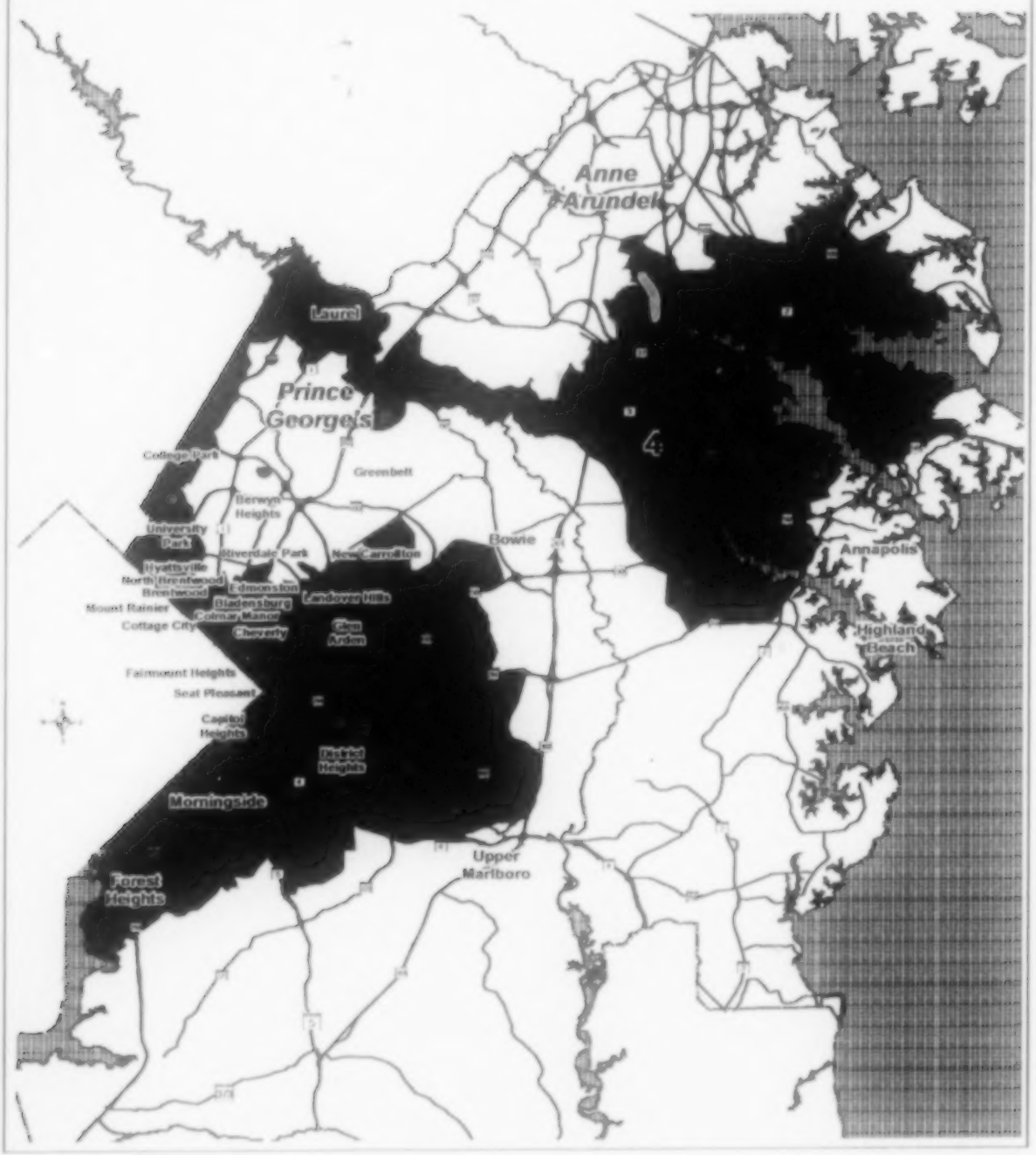



Maryland 2011 Congressional District 3
Senate Bill 1
October 20, 2011
Hunt Valley
Owings Mills
Towson
White Marsh
Randallstown
Baltimore
Baltimore City
Essex
Howard
Ellicott City
Catonsville
Dundalk
Columbia
Laytonsville
Brookeville
3
Anne Arundel
Montgomery
Garrett Park
Kensington
Takoma Park
Cherry Chase
Somerset
Annapolis
Highland Beach

Maryland 2011 Congressional District 4

Senate Bill 1

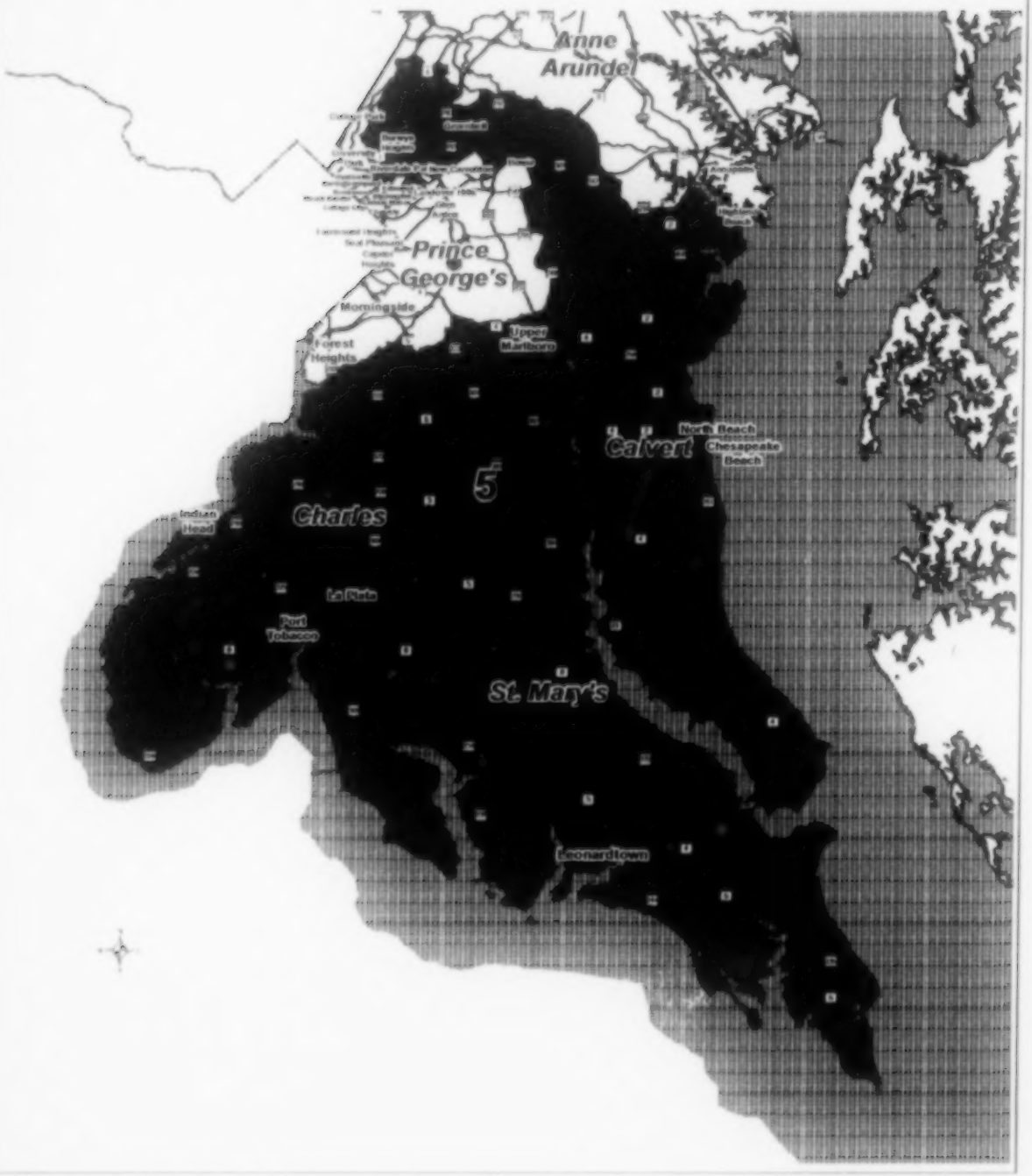
October 20, 2011



Maryland 2011 Congressional District 5

Senate Bill 1

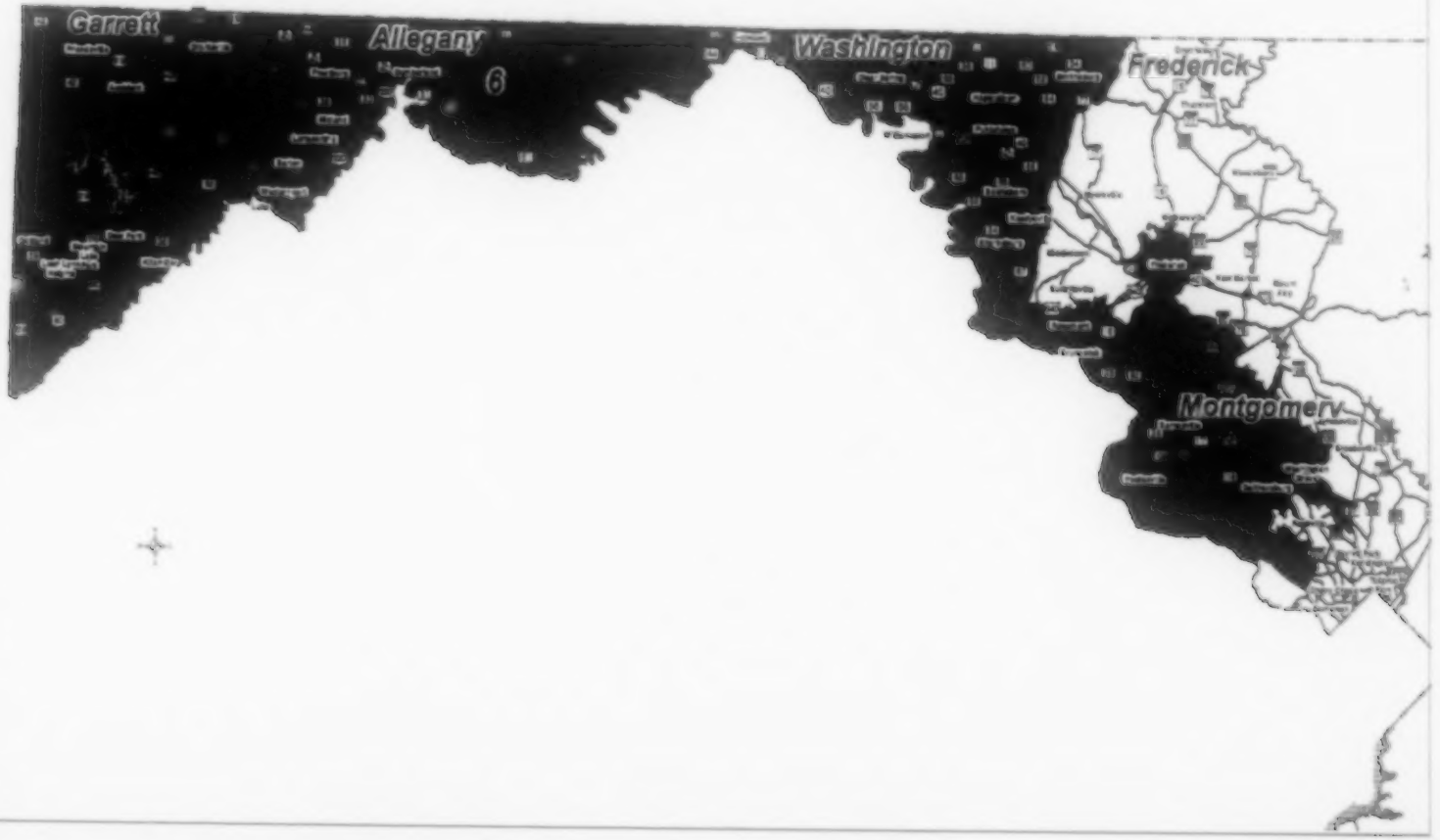
October 20, 2011



Maryland 2011 Congressional District 6

Senate Bill 1

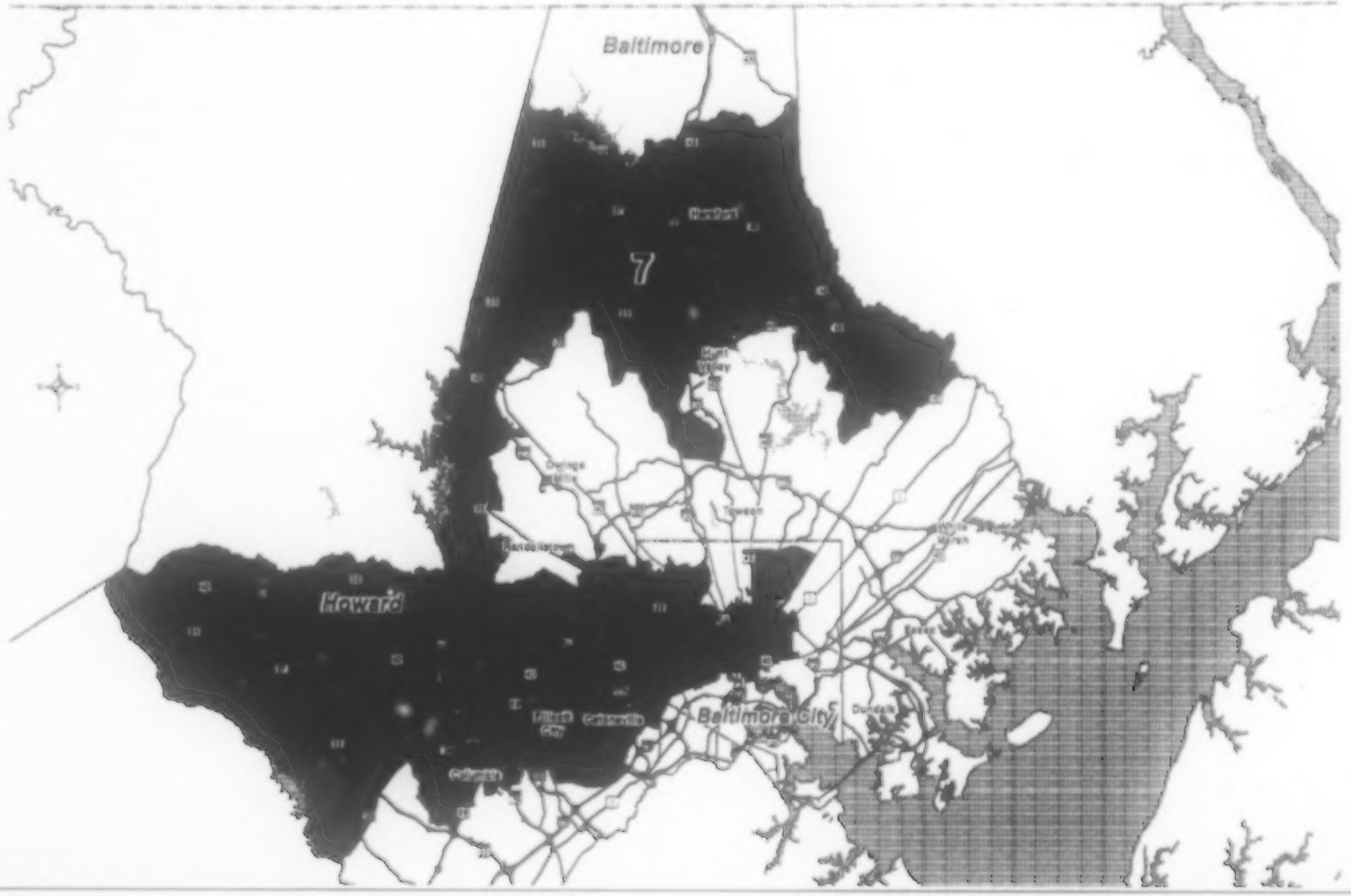
October 20, 2011



Maryland 2011 Congressional District 7

Senate Bill 1

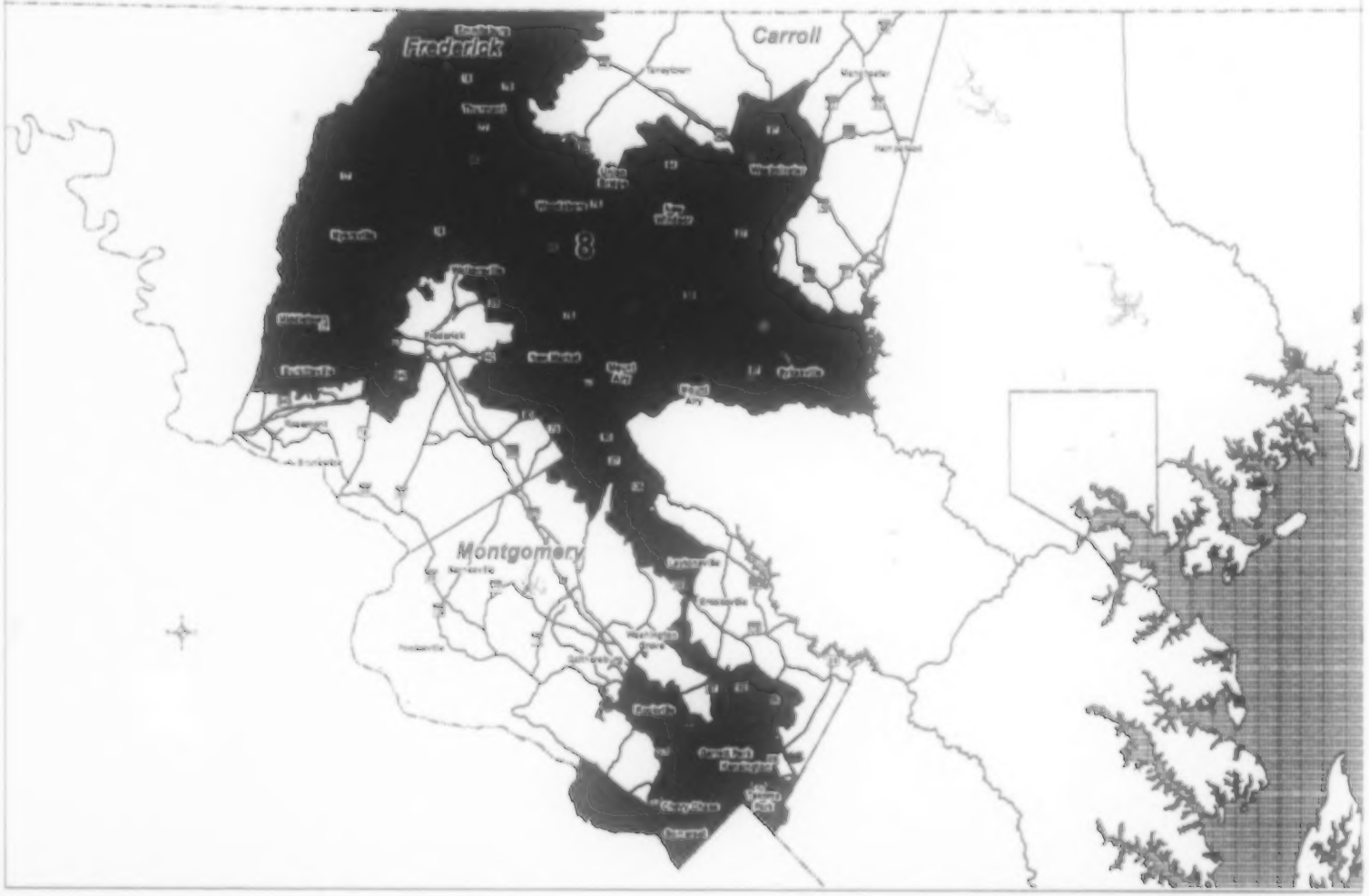
October 20, 2011



Maryland 2011 Congressional District 8

Senate Bill 1

October 20, 2011



Recommended Congressional Plan

Governor's Redistricting Advisory Committee

Exhibit 32

MC.M002454

Governor's Redistricting Advisory Committee

- Membership
  - Jeanne Hitchcock, Chair
  - Senate President Miller
  - House Speaker Busch
  - Richard Stewart
  - James King
- Public Input
  - 12 Regional Hearings Across the State close to 1000 Marylanders.
  - 350 total Comments (3rd Party Plans, testimony at meetings, written).

Recommended Plan Highlights

- Approximately 70% of Marylanders stay in their current Congressional District.
- Plan reflects population changes over past decade.
- Plan does not draw any incumbent member of Congress out of his / her district.
- District by District description follows.

District 1: Eastern Shore

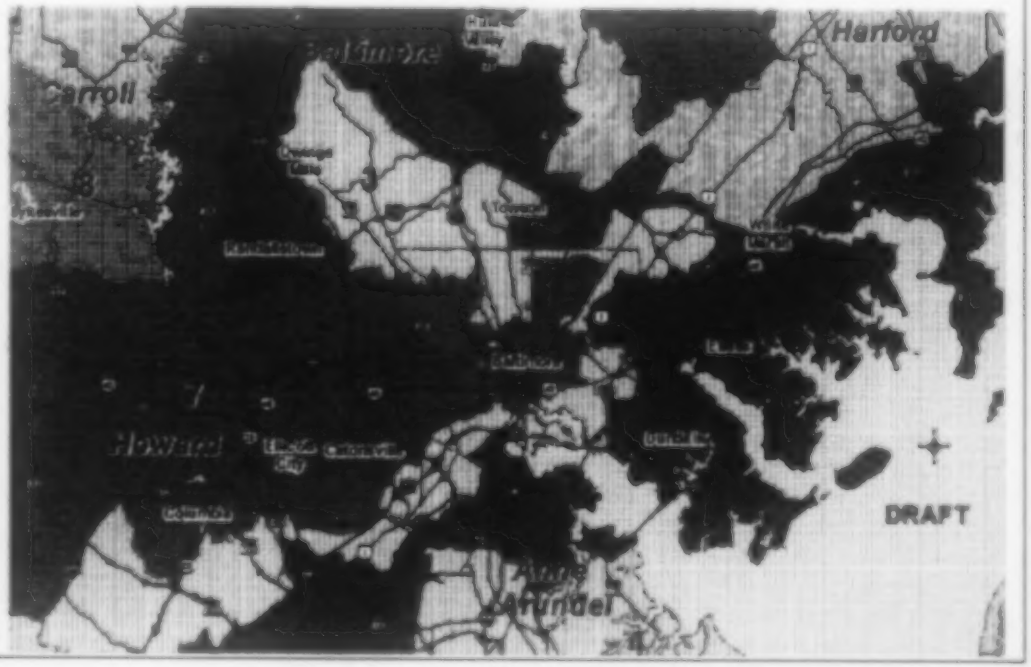
- 9 Eastern Shore Counties are kept together.
- District no longer crosses the Chesapeake Bay into more urban areas of Anne Arundel County, instead runs into rural portions of Carroll County.
- Harford County is no longer split into 3 Congressional Districts, a desire expressed by residents .

MCM002457

Districts 2, 3, and 7: Baltimore Region

- **District 7** remains a district based in Baltimore City, with surrounding portions of Howard and Baltimore Counties that are primarily in the current 7th District.
- **District 3** remains a Central Maryland district that incorporates portions of the Baltimore and suburban Washington regions because of population growth in Central, MD.

Baltimore Region

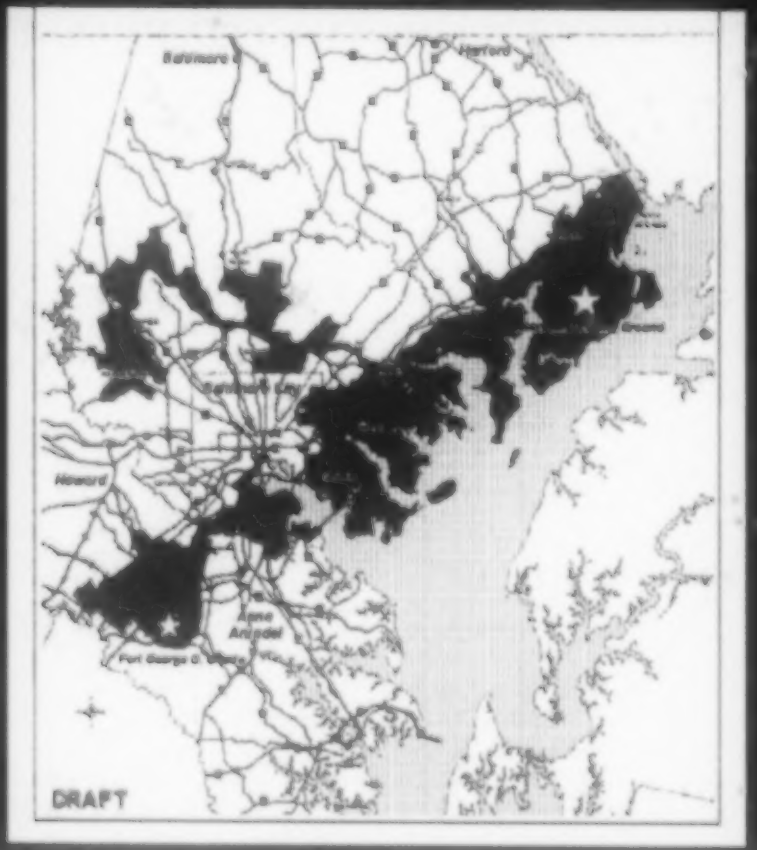


MCM002459

District 2

- Retains its character as a BRAC corridor district, anchored on the Northeastern edge by Aberdeen Proving Ground and the Chesapeake Bay shoreline of Harford County, through the Baltimore region, and anchored on the Southern edge by Fort George G. Meade.
- This configuration includes communities along the Upper Western Shore of the Chesapeake Bay and allows for the residents most impacted by the Base Realignment and Closure process to elect a Congressman capable of focusing on this important issue.

District 2



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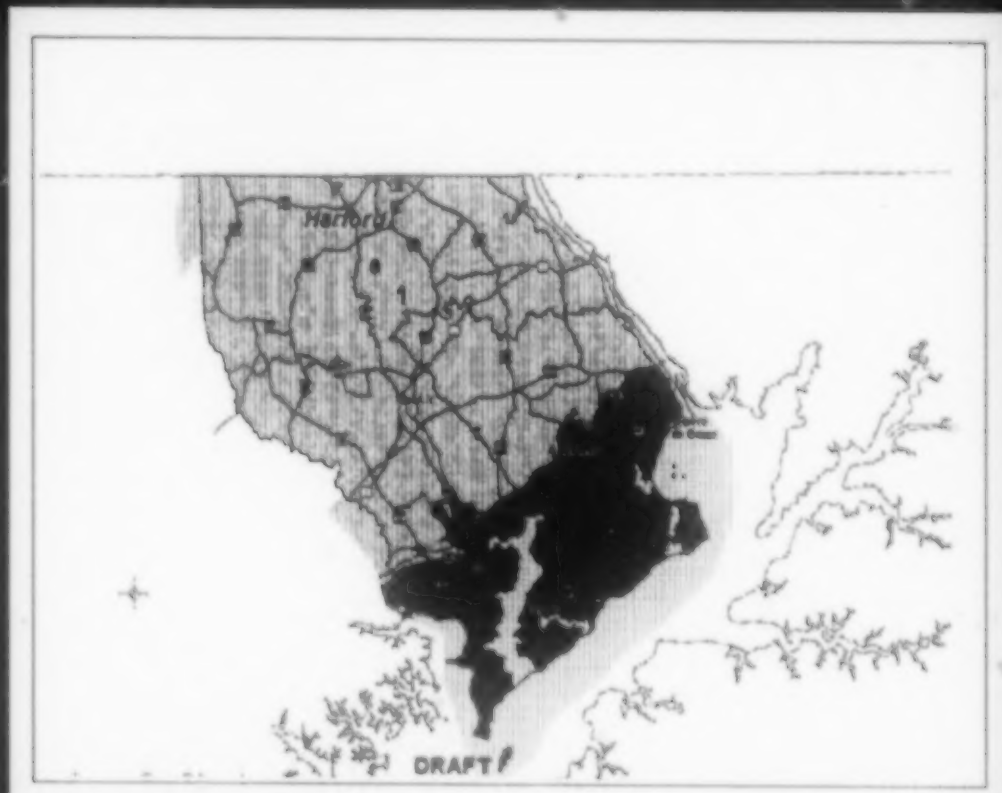
Harford County (parts of Districts 1 & 2)

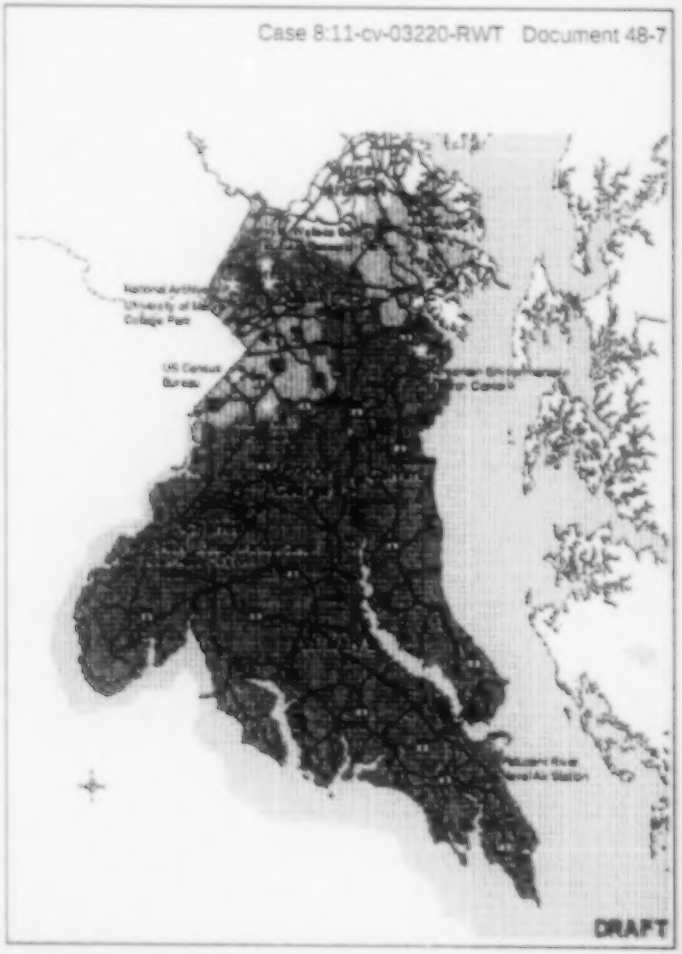


Districts 4, 5, 6 & 8: Greater Washington, D.C. Region

- Public testimony in this region expressed a desire to have a Congressional map that better reflects patterns in this region – the growth in Southern Maryland from Prince George's County, and the growth of the suburbs along the I-270 Corridor.
- Districts 4 & 5 - the Committee drew 2 districts that are based in Southern Maryland/Prince George's County.
- District 4 connects communities of Central and Upper Prince George's and Anne Arundel Counties, and District 5 connects communities of Upper and Southeastern Prince George's County with Anne Arundel County and Southern Maryland.
- Within Prince George's County, the Committee kept existing communities within their current Congressional districts, to the extent possible.
- Both districts retain the important State and Federal facilities currently within the districts. For instance in the 4th District: the Census Bureau in Suitland, Andrews Airforce Base, etc., and the District is anchored by the National Harbor complex.

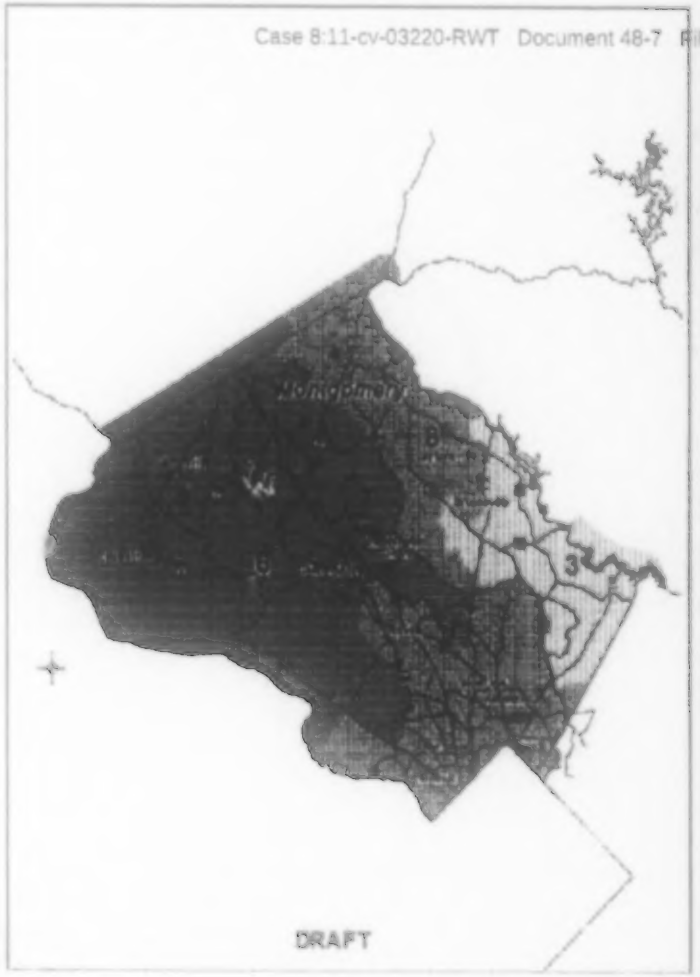
Districts 4, 5, 6 & 8: Greater Washington, D.C. Region (con't)

- Districts 6 & 8 - based in Montgomery County and the I-270 Corridor, into Western Maryland.
- Consistent with public testimony to the Committee, the proposed map eliminates the current overlap of districts in Prince George's and Montgomery Counties (District 8 into Prince George's and District 4 into Montgomery).
- District 8 includes southern Montgomery County, areas east of the I-270 Corridor, and includes portions of eastern Frederick County and western Carroll County.



Districts 4 & 5: Prince George's, Anne Arundel, Southern, MD

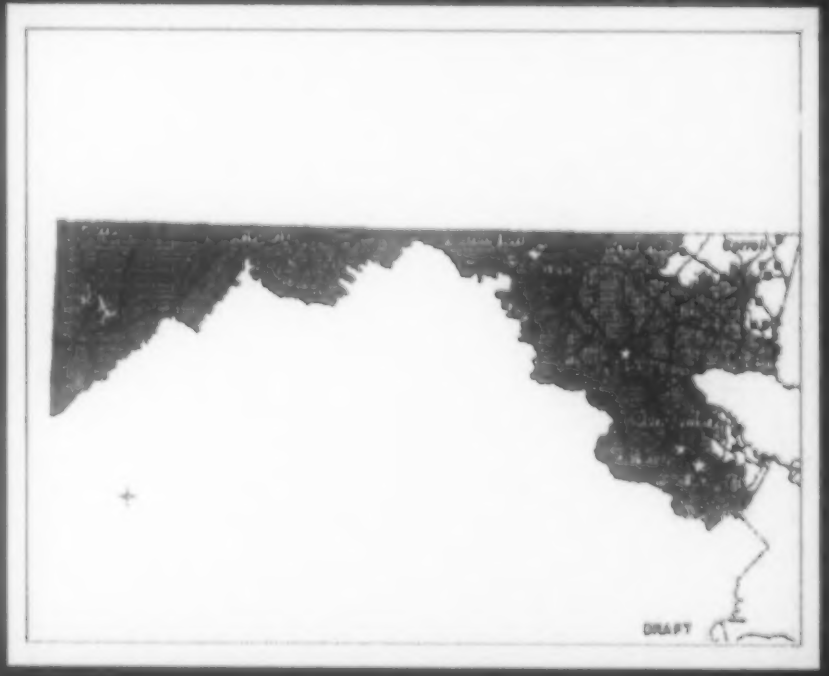
The Committee focused on the current alignment of District 5, which encompasses the Patuxent Naval Air Station, Indian Head Naval Surface Warfare Center, NASA's Goddard Space Flight Center, the National Archives II, the Smithsonian Environmental Research Center, other vital federal facilities, and related research and economic development resources at the University of Maryland, College Park.



Districts 6 & 8: Montgomery County Area

- Configured to reflect the North-South connections between Montgomery County, the I-270 Corridor, and western portions of the State.
- Per public testimony, the Plan reduces the number of Congressional Districts in Prince George's County from 3 to 2, and re-orients the Montgomery County districts to reflect population trends.

District 6 & 8: Western Maryland, Frederick, and Montgomery Counties

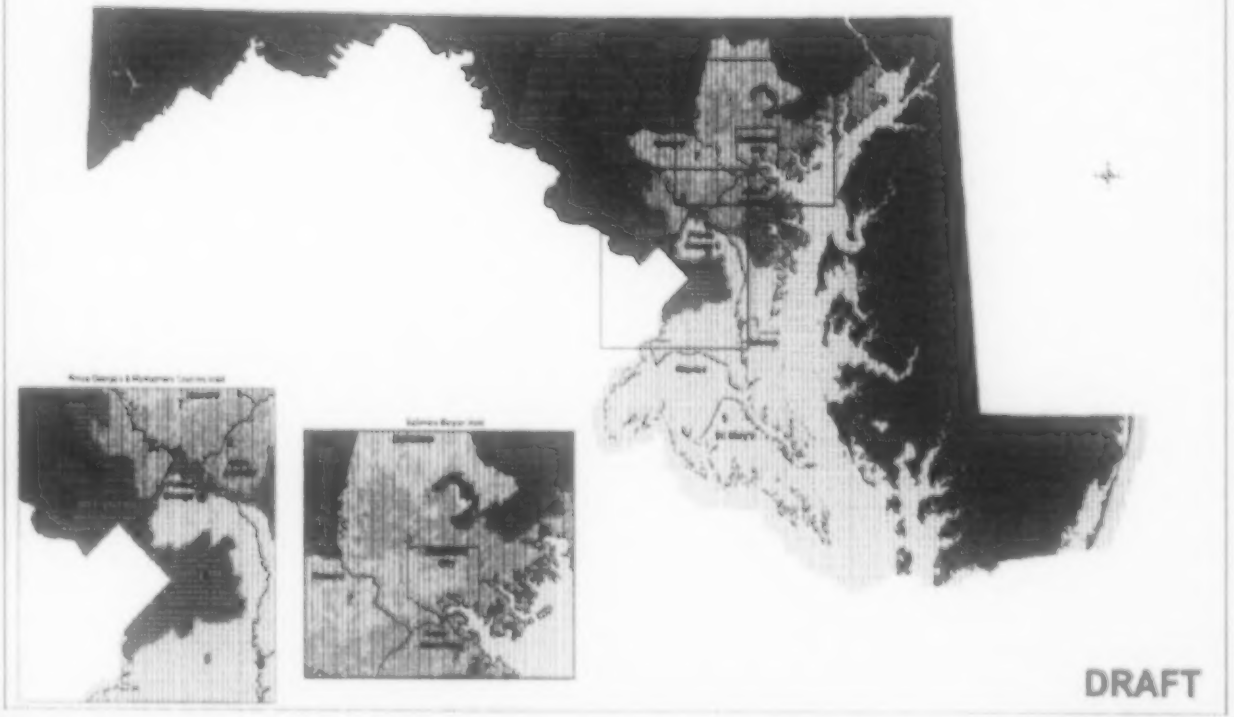


District 8 - includes Southern Montgomery County, areas east of the I-270 Corridor, and includes portions of eastern Frederick County and western Carroll County.

District 6 keeps Western MD together (all of Washington, Allegany, and Garrett Counties), continuing along the Potomac River, connecting portions of Frederick and Montgomery Counties, and incorporates the I-270 Corridor in Montgomery and Frederick Counties.

MCM002467

Statewide Map



O'Malley's map easily wins House approval

Baltimore delegates (from left) Keiffer Mitchell, Mary Washington, Jill Carter and Keith Haynes study a copy of a proposed redistricting map on the House of Delegates floor during debate Wednesday. (Barbara Haddock Taylor / The Baltimore Sun)

By **Annie Linskey and John Fritze, The Baltimore Sun**

OCTOBER 19, 2011, 9:12 PM

A new political map aimed at adding a seventh Democrat to the state's congressional delegation is expected to be sent to Gov. Martin O'Malley Thursday for his signature.

The plan won approval in the Maryland House of Delegates on Wednesday after five hours of debate, overcoming unified opposition from Republicans and ire from suburban Washington Democrats. One final stamp of approval is expected from the Senate Thursday morning.

Despite two weeks of steady criticism from liberal and conservative groups, the bill passed 91 to 46, with only five Democrats joining the House GOP caucus to vote "no." House leaders easily fended off three Republican amendments and one from Montgomery County Democrats, who argued that the map denies them a minority voice in Congress.

"It is an emotional process," said House Speaker Michael E. Busch in a meeting with reporters shortly after the legislation passed. "If you were to say it is a gerrymandered map, you started with a gerrymandered map. There is not a perfect process."

The state's ruling Democrats drew the new congressional districts, a process required every decade to reflect population changes found by the Census. Unless altered in court, the map will govern Maryland's elections to the U.S. House of Representatives for the next 10 years, starting with the April 3 primary.

The map is sure to face a legal hurdle, however, a fact even Democratic lawmakers conceded on the House floor. "It will be challenged in court," said House Majority Leader Kumar Barve. "But every plan is challenged in court. It is part of the process."

Republicans pointed out that the mapmakers drew lines to pack suburban Washington Democrats into Western Maryland's conservative 6th District, currently represented by Republican Rep. Roscoe G. Bartlett. And critics including the Maryland National Association for the Advancement of Colored People said that in dividing Montgomery County into three districts, the map sliced up minority populations and weakens their voting strength.

State Republicans were among several groups that threatened to file a lawsuit.

"These districts are not compact. They split up communities of interest. They appear to dilute minority communities," said House Minority Leader Anthony O'Donnell. "And it is clearly an exercise in politicians picking their voters instead of doing what is in the best interest of the citizens."

The effort to squeeze an incumbent Republican member of Congress out of office comes as states across the country are engaged in their own redistricting — a process that could have significant implications for the balance of power in Washington after next year's presidential election. Democrats hope to capture the U.S. House of Representatives while the GOP is aiming to add to the gains made in 2010.

Maryland is one of only six states in which Democrats have direct control of the process — compared with 18 states in which the GOP oversees redistricting. The remaining states are either politically divided or have nonpartisan commissions in charge of the process.

That is sure to put Maryland's new 6th District in the national spotlight as Democratic groups endeavor to take advantage of the rare opportunity.

"It's one of a handful of states where Democrats come out of redistricting with a better map," said David Wasserman, an editor at the nonpartisan *Cook Political Report* who follows House races nationally. "Democrats will clearly prioritize every advantage they have."

Bartlett, the 10-term Republican from Western Maryland, issued a statement hours after the vote promising that he will seek re-election, even though his district would switch from a conservative, rural stronghold to a more left-leaning enclave anchored in Montgomery County.

The 85-year-old congressman, who raised $1,000 over the past three months, will have to introduce himself for the first time to nearly half of his potential constituents. "I filed for re-election in June," Bartlett said in a statement. "Approval of this map hasn't changed my plans."

The Fannie Lou Hamer Political Action Committee, a Prince George's County group formed last year to increase the number of minority-controlled congressional districts, pledged to sue under the federal Voting Rights Act, arguing the plan dilutes minority voting power in Montgomery County.

Carletta Fellows, a spokeswoman for the group, said it will file its case as soon as O'Malley signs the bill and also will ask the Department of Justice to separately review the plan.

It is unclear if the group will be joined by the state's NAACP, which raised concerns about the map but is deferring to their national legal experts to determine whether they'll participate in a lawsuit, said Elbridge James, political director with the NAACP.

A spokesman for the organization's legal defense fund says the map is under review.

Del. Justin D. Ready, a Carroll County Republican and the interim executive director of the state GOP, said the party plans to put "resources toward working on a lawsuit" but noted "it costs a lot of money."

"It'll be a team effort," he said. "It'll be a point of emphasis for us as we raise funds, obviously."

Throughout the summer, Maryland Republicans and some members of the Legislative Black Caucus had hinted that they might join forces in opposing the governor's plan. Each of the three amendments offered by the GOP would have drawn three majority minority districts, a goal stated by some black leaders.

But none of the Black Caucus members voted with the GOP — including on a proposal drafted by the Fannie Lou Hamer group.

Ten Democrats, mostly from the Washington suburbs, supported a separate amendment that would have inched the new 4th District back into Montgomery County, a plan drafted by Rep. Donna Edwards. That plan failed 26-107.

In an unusual move, Edwards, a Prince George's County Democrat, spoke publicly against O'Malley's map on grounds that it would rob Montgomery, a majority minority county, of a black voice in Congress.

In a statement, Edwards acknowledged defeat, saying the state legislative process had "run its course." Still, she remains unhappy with the result, saying it "is not the best approach for minority voters or for all Marylanders."

O'Donnell offered the first of three GOP plans Wednesday — a proposal drafted this past summer by the state Republican Party that would keep congressional districts more compact. Democrats argued the GOP plan would force many voters into new districts.

Democrats, meanwhile, defended O'Malley's map, which they said would keep 70 percent of state residents in their current district. "There is no constitutional requirement that the map be pretty," said Del. Kathleen M. Dumais, a Montgomery County Democrat.

An alternate plan crafted by the Fannie Lou Hamer group initially appeared like it might gain some traction in the House, but it ultimately failed on a 40-97 vote.

The political action committee, named for the Mississippi-born civil rights leader in the 1950s and '60s, offered the map that would put Edwards' 4th District back into Montgomery County to ensure that minorities in that part of the state are represented by a black member of Congress.

It was introduced by Del. Neil C. Parrott, a freshman Republican best known for leading a successful effort to halt a law allowing some illegal immigrants to pay in-state tuition at Maryland colleges and universities.

But Baltimore County Del. Emmett C. Burns Jr., the pastor of an African-American church, rose to say he knew Hamer personally and attended her funeral. He gave an impassioned speech on the House floor, saying that he was "conflicted" about how his vote would affect minorities, but in the end supported the governor and said he believed Hamer would have too.

"I don't think I voted against her wishes," Burns said. "I think she would have opted for the larger picture, and that is more Democrats in the House of Representatives."

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This article is related to: Elections, Democratic Party, Republican Party, Executive Branch, U.S. House of Representatives, Illegal Immigrants, NAACP

Redistricting panel targets Rep. Bartlett

By Annie Linskey, The Baltimore Sun

OCTOBER 3, 2011, 10:41 PM

A panel appointed by Gov. Martin O'Malley recommended a new political map Monday evening that would pack Democrats into a redrawn 6th Congressional District in Western Maryland, giving the state's majority party a shot at sending a seventh Democrat to Washington.

The proposed map targets the 6th District representative, Republican Roscoe Bartlett, but would add GOP voters to the 1st Congressional District represented by the state's other Republican, Andrew Harris.

"I think you will have a very competitive 6th District when you didn't have that in the past," said House Speaker Michael E. Busch, a member of the redistricting panel. He said the new lines in Western Maryland reflect population growth along the Interstate 270 corridor.

The General Assembly's House and Senate Democratic caucuses were briefed on the plan by Jeanne D. Hitchcock, a longtime aide to O'Malley who chairs the Governor's Redistricting Advisory Committee.

Del. Curt Anderson, a Baltimore Democrat, stepped out of the meeting and said Hitchcock used broad hand gestures in her presentation reminding him of a weather report. Anderson said he came away from the meeting thinking "there will be a very cold front going through Western Maryland."

The map immediately drew criticism from Republicans, who view the redistricting process as blatant gerrymandering. "It is pure, raw, brute-force political power," said Del. Anthony O'Donnell, the House of Delegates minority leader.

Monday evening was the first time members of the General Assembly were officially presented the proposal of the advisory committee, a five-member panel that held hearings around the state over the summer.

The panel's recommendation is said to be similar in some respects to a map obtained Friday by The Baltimore Sun known as Option 1. A second map, known as Option 2, was designed to make all eight of the state's congressional districts attractive for Democrats.

Busch said that the governor will put the proposed map online for public comment for seven days and then consider making shifts in the borders. He said he expects O'Malley to call the General Assembly into special session Oct. 17 to approve the plan, and said he does not think the session will last longer than a week.

Lawmakers will have the opportunity to amend the map during the legislative process. The measure will be an emergency bill, and will therefore become law immediately after the governor signs it.

Officials said the proposed map makes only slight changes to congressional districts in the Baltimore area. The city would continue to be represented by three members of Congress.

Busch said a guiding principle in crafting the new map was to keep as many Marylanders as possible in their current congressional districts. On average, each new district keeps 70 percent of the population it previously held, he said.

The map, however, would put the western half of Montgomery County into the 6th District. That would mean the new congressional district would include all of state Sen. Rob Garagiola's General Assembly district. Garagiola, a favorite of Senate President Thomas V. Mike Miller, has said he would consider running for Congress if a favorable map were drawn.

Garagiola said he still wants to see the final congressional borders before he commits to running for the House of Representatives. If the final map is similar to the one presented, "there would be a very good chance I would run," Garagiola said.

Besides Hitchcock, Busch and Miller, panel members are Richard Stewart, who also serves on the Maryland Stadium Authority, and James King, a former state delegate who is the committee's only Republican.

O'Malley is not required to accept their map but is widely expected to accept at the least a very similar proposal. He's now in North Carolina raising money for the Democratic Governors Association.

Bartlett's Western Maryland seat is an appealing target for Democrats on several counts. Democratic strategists believe that over time it is becoming more liberal, as Washington-area residents move up the Interstate 270 corridor to Frederick and Hagerstown.

They also point to Bartlett's lackluster fundraising: The 85-year-old congressman raised a mere $28,000 in the second quarter of this year, putting him last among the state's eight-member delegation.

annie.linskey@baltsun.com

http://www.twitter.com/annielinskey

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Sandra Benson Brantley
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Kathrin M. Rowe
Assistant Attorneys General

The Attorney General of Maryland
Office of Counsel to the General Assembly

October 20, 2011

The Honorable Martin O'Malley
Governor of Maryland
State House
100 State Circle
Annapolis, Maryland 21401-1991

RE: Senate Bill 1 of the Special Session of 2011

Dear Governor O'Malley:

We have reviewed and hereby approve for constitutionality and legal sufficiency Senate Bill 1, an emergency bill creating new districts for congressional elections based on the 2010 census. As always, in reviewing a bill passed by the General Assembly prior to its approval or veto by the Governor, we apply a "not clearly unconstitutional" standard. 93 *Opinions of the Attorney General* 154, 161, n. 12 (2008). This standard reflects the presumption of constitutionality to which statutes are entitled and the Attorney General's constitutional responsibility to defend enactments of the Legislature, while also satisfying the duty to provide the Governor with our best legal advice. *Id.* In reviewing Senate Bill 1, we have considered whether it complies with the one person / one vote requirements of Article I, § 2 of the United States Constitution and Section 2 of the Voting Rights Act, and have found no violation. We also found no reason to believe that Senate Bill 1 constitutes a racial gerrymander in violation of the Fourteenth Amendment as interpreted in *Shaw v. Reno*, 509 U.S. 630 (1993).

Under Article I, § 2 of the United States Constitution, members of the House of Representatives are elected "by the people" from single member districts "founded on the aggregate number of inhabitants of each state," Madison, *The Federalist*, No. 54 at 369. The United States Supreme Court has said that Article I, § 2 requires states to make a good faith effort to achieve precise mathematical equality." *Kirkpatrick v. Preisler*, 394 U.S. 526, 530-531 (1969). Senate Bill 1 does this. Seven of the districts contain 721,529 people, while one district contains 721,528 people. It is not possible to achieve greater population equality.

The population figures above have been adjusted as required by the No Representation Without Population Act, Chapter 67 of 2010, which requires that prisoners be counted in the place in which they resided prior to their incarceration, rather than in the place where they are incarcerated. This shift does not violate the equal population requirement of Article I, § 2. Federal courts have generally allowed states to determine the appropriate method by which to calculate population. 94 *Opinions of the Attorney General* 125, 127-129 (2009) (collecting cases). As noted in *Burns v. Richardson*, 384 U.S. 73, 92 (1966), the Supreme Court has never suggested that "the States are required to include aliens, transients, short-term or temporary residents, or persons denied the vote for conviction of crime in the apportionment base by which their legislators are distributed." Nor have we found any basis for the conclusion that it is not permissible to count prisoners at their home districts rather than remove them from consideration altogether.[1]

To pass muster under the Voting Rights Act, the plan, analyzed in light of the totality of the circumstances, must create political processes leading to nomination and election in the State that are:

> equally open to participation by members of a class of citizens protected by subsection (a) in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.

42 U.S.C. § 1973(b).

The Supreme Court has created a three part test that plaintiffs must meet in order to bring a successful challenge to a redistricting plan under the Voting Rights Act. *Thornburgh v. Gingles*, 478 U.S. 30, 50-51 (1986). Specifically, it is necessary to show:

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[1] This method of enumerating prisoners was apparently used in the 1900 census, Nat'l Research Council, *Once, and Only Once, and in the Right Place: Residence Rules in the Decennial Census* 84-85 [Daniel L. Cork and Paul R. Voss, eds., 2006], and the reasons the Census Bureau counts prisoners where they are incarcerated now are technical rather than constitutional, U.S. Census Bureau Report: Tabulating Prisoners at Their "Permanent Home of Record" Address, pp. 10-13 (February 21, 2006). In fact, the Census Bureau released prisoner and other group quarter numbers early in this round of redistricting "so that states can leave the prisoners counted where the prisons are, delete them from the redistricting formulas, or assign them to some other locale." Director's Blog, United States Census Bureau, posted March 10, 2010. http://blogs.census.gov/directorsblog/2010/03/so-how-do-you-handle- prisons.html

> (1) that the minority group is sufficiently large and geographically compact to constitute a majority in a single-member district; (2) that the minority group is politically cohesive; and (3) that the white majority votes sufficiently as a bloc to enable it ... usually to defeat the minority's preferred candidate.

Bartlett v. Strickland, 556 U.S. 1, 21 (2009). Meeting this test is not sufficient to establish a violation, but is necessary before the court will proceed to analyze whether a violation has occurred based on the totality of the circumstances. *Id.* at 21-22. Analysis of a plan under these factors requires complex statistical analysis. For that reason, the State engaged in a nationwide search and hired an expert in the field, Bruce E. Cain, Ph.D., Heller Professor of Political Science, University of California Berkeley, and the Executive Director of the U.C. Washington Center. A copy of Dr. Cain's Curriculum Vitae and a copy of his analysis are attached.

According to Dr. Cain's analysis, the only minority group that has sufficient population to constitute a majority of a congressional district in Maryland is African Americans. While other minorities could form a majority in combination with African Americans, attempts to show cohesion among such coalitions has been difficult across the country. It is the view of the State's expert that political cohesion could not be shown for a coalition district in this State either.

According to the United States Census Bureau numbers non-Hispanic African Americans are found throughout the State and constitute 29% of the State's population. Compact populations of African Americans are found in the Baltimore region, and also in the areas around the District of Columbia.[2] The current plan creates a majority African American district in each of these population centers. Each of these districts has a 53.7% non-Hispanic African American voting age population,[3] and will, based on the analysis of the State's expert, enable African American voters to elect their candidates of choice. Moreover, African American voters are not packed in either district in a way that would

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[2] The relevant geographic area for the compactness analysis is a single member district, not a county. Thus, the fact that a county has a significant minority population, or has in the past had a portion of a majority minority district, is irrelevant to this analysis.

[3] This percentage is based on unadjusted data, Census 2010, P.L. 94-171 Redistricting Data (Maryland). An adjusted total for Hispanic is not available because no Hispanic designation was available for incarcerated persons.

inhibit the creation of an additional district. Even so, the population not included in either of these two districts is not, in the view of the State's expert, sufficiently compact to meet the requirements of the *Gingles* test. In the absence of compactness, the Voting Rights Act does not require the creation of an additional majority minority district simply because it is possible. *Abrams v. Johnson*, 521 U.S. 74, 90 (1997); *Johnson v. DeGrandy*, 512 U.S. 997, 1017 (1994).[4] For these reasons, it is our view that Senate Bill 1 is in compliance with the Voting Rights Act.

It is also our view that nothing in Senate Bill 1 can be deemed an unconstitutional racial gerrymander. As discussed above, the two majority minority districts in the plan cover compact African American populations. While the 7th district is not compact overall, the shape is not due to any predominant focus on race, as prohibited under the holding of *Shaw v. Reno*, 509 U.S. 630 (1993), but to add population to the area of compact minority population and based on other considerations.

As indicated by those who participated in developing and adopting the redistricting plan, including the Redistricting Commission, the Governor, and the General Assembly, the boundaries of the newly adopted Congressional districts reflect a number of considerations, including a preference for joining communities of interest, keeping residents in their current districts, recognizing growth patterns, protecting incumbents, and partisan consideration. These factors have been recognized as permissible considerations under applicable case law. It is our view that Senate Bill 1 is not unconstitutional.

Very truly yours,

Douglas F. Gansler
Attorney General

DFG/KMR/kk

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[4] With respect to the other two factors, the analyses performed by the State's expert reflect that while African American voters are generally politically cohesive, there is not significant polarized voting in the areas in question.

Voting Rights Assessment of Governor's Maryland Congressional Redistricting Plan

Professor Bruce E. Cain

A valid Congressional redistricting plan must meet all federal constitutional and statutory standards. Aside from creating equally populated, contiguous districts, the state is required to adhere to the standards of the Voting Rights Act (VRA) of 1965 as amended in 1982. There are of course many other perfectly legitimate political considerations that underlie the construction of districting plans, but they are secondary to the federal criteria. It is my judgment that the Governor's 2011 Congressional redistricting plan satisfies those federal criteria.

The relevant part of the VRA for Maryland is Section 2 which prohibits voting practices and procedures that discriminate on the basis of race, color or membership in a designated language minority group. When the VRA was amended in 1982, the Congress supplemented the previous intent standard established under Mobile v Bolden 446 US 55 (1980) with a totality of circumstances test that essentially asked whether in the context of various considerations a standard, practice or procedure (in this case a redistricting plan) has the effect of denying a protected minority group an equal opportunity to elect a candidate of choice. The Supreme Court in reviewing the 1982 revisions developed a three prong test in Thornburg v Gingles 478 US 30 (1986) that all states and local jurisdictions follow when assessing their Section 2 redistricting liability. Because these tests are empirical, they are usually conducted by political scientists.

There are three questions that need to be answered under the Gingles standard: 1. is the protected minority group sufficiently large and concentrated in a reasonably compact area to constitute a majority of a district; 2. is the group politically cohesive; and 3. does it face racial polarization by the majority population? To answer the first question, I mapped the voting age population (VAP) concentrations of African-Americans, Latino and Asian-Americans using the 2010 Census data, and determined whether there are reasonably compact voting age (VAP) concentrations of those groups that would be sufficient to constitute a majority of the ideal population (721,259) for a Maryland Congressional district.

There has been significant growth in Maryland's minority populations, particularly in Prince George's and Montgomery counties, both of which are now majority minority in population. Not all of this growth translates into political strength especially in the Latino population, as non-citizenship and a large Under 18 population share make many ineligible to vote. Unfortunately, there are no reliable estimates of citizenship, so we must rely on voting age population (VAP) as the best proxy. In my judgment, despite the impressive growth of the Latino and Asian American populations, neither has yet

reached the critical 50% VAP threshold for Congressional sized districts required by the law although they may in the next census.

The African-American case, however, is different. I determined that there are sufficient, reasonably compact concentrations in both the Baltimore and Prince George's/Montgomery County areas to create two majority black VAP Congressional districts. This is reflected by the creation of two majority African-American VAP districts (CDs 4 and 7) in the Governor's 2011 Congressional Redistricting Plan. But given the growth in the African-American population, I next explored whether there is sufficient population in a reasonably compact concentration to create a third majority black district. My conclusion is that there is not.

I explored a number of possible alternatives but I found there was simply no way to create a third majority black voting age population district in the Prince George's/Montgomery area or Baltimore and its suburbs area while maintaining two other African-American majority VAP seats . With one exception, this seems to have been also the judgment implicit in all the third party plans, including from a former Justice Department official on behalf of the Legislative Black Caucus. The one exception is the Fannie Lou Hamer PAC Plan that addresses the problem with a new barbell district that links black populations in the Baltimore area in the north with the Prince George's/Montgomery/Anne Arundel areas in the south with a narrow corridor through the intervening predominantly white areas. But such solutions substantially raise the risk of a so-called Shaw violation.

Faced with increasingly contorted attempts to maximize minority representation, the Supreme Court in a series of decisions beginning with *Shaw v Reno* 509 US 630 (1993) put limits on attempts to redistrict affirmatively. The resulting standard from these cases is that race can be taken into consideration but it should not be the exclusive or predominant consideration. Districts like the disputed majority black district in the *Shaw v Reno* case that link disparate black populations with narrow corridors to avoid white populations have been ruled unconstitutional. Districts drawn predominantly along racial lines invite a strict scrutiny review by the courts and significantly raise the odds of a Congressional plan being overturned on review. Given the geographic distribution of Maryland's African-American community and the heavy and suspect racial tailoring needed to create a potential third majority black VAP district, it is my view that the state was not required to do so.

The second step in the Gingles test is whether groups are politically cohesive. This judgment is based on analysis of past voting and survey returns as well as the scholarly literature on racial and ethnic voting tendencies. The evidence is clear in Maryland and elsewhere that African-Americans are a politically cohesive group. The same is likely true of Latinos based on national data, but the track record in Maryland is not very extensive yet. The national evidence on Asian-Americans is more mixed as a number of studies have revealed important differences based on historical tensions and socio-economic disparities between different Asian-American nationalities. Given that neither the Latino nor Asian-American populations have yet attained the threshold majority VAP level required for Congressional districts, it was not necessary to explore this question with respect to those groups in Maryland further at this time.

I also considered whether the state is compelled to create a new majority-minority VAP coalitional seat. The Governor's plan has already created a number of coalitional seats, including 2 that are already majority minority, 4 that are over 30% minority, 1 of which is over 40% minority and will likely be majority minority by the end of the decade. In short, it is likely that there will likely be a third majority-minority VAP coalitional congressional district before the next redistricting. The relevant legal question with whether the state is compelled to create another one right now.

It is important that we separate the political merits of different types of coalitional seats from the legal requirement to draw an additional 50% majority minority VAP district. The former is a political judgment. The latter requires meeting the Gingles tests. Proving that coalitional groups are sufficiently politically cohesive under the VRA has been difficult across the country. The original framework of the VRA was devised in a primarily biracial setting. The new diversity challenges the old framework in many important ways, particularly when different protected minority groups have competing claims in the same territory. The Gingles framework requires that coalitions have the same levels of cohesion that single minority groups have, and that is typically very hard to prove.

The normal method is to look at a number of elections that feature white v nonwhite and nonwhite v nonwhite candidates in primary and nonpartisan elections (to control for the effects of partisanship), and to link this with demographic data. As a preliminary analysis, I mapped the political returns and compared them with the demographic data and then ran multivariate regressions testing for detectable racial patterns in the 2008 Democratic Presidential Primary and for the 2008 General Election controlling for party. They basically confirm what the national survey data showed as well, which is that Hispanics as well as certain segments of the white population were considerably and statistically significantly less likely than African-Americans to support Barack Obama in both the primary and general election. This led me to conclude that it would be very hard to argue that African-Americans and Hispanics vote as a sufficiently cohesive political bloc to satisfy that prong of the Gingles test.

I would also add in California, a state that I have studied extensively, coalitions between African-Americans and Latinos have been quite unstable. When Latinos become sufficiently large to constitute a majority, they have preferred to solidify the prospects of electing a candidate of their choice and not of the African-American community. Tensions between the two groups have also come out in recent LA Mayoral races and in ballot measures over English as a second language and state benefits for undocumented Latinos.

The issue of a multi-racial coalition ties into the third prong of the Gingles test: I.e. whether white voters vote in a racially polarized way against African-American candidates. I base my conclusions on my preliminary examination of voting patterns in Maryland. I also attended the redistricting hearings in Prince George's and Montgomery Counties (areas of the most significant nonwhite racial growth), and the testimony at the October Special Legislative Session on October 17. Based on my own analysis, the testimony I heard, and the relevant academic literature, I believe that there is no simple generalization about white voting behavior in Maryland: white voters as a group are neither universally polarized nor completely post-racial.

The Maryland 2008 returns show high levels of support for Obama in both the primary and general elections in white urban and suburban areas such as Montgomery and Prince George's Counties and lower support in rural areas at the western end of the state and the Eastern shore. In the testimony I heard, there were numerous individuals in Montgomery County especially (including the African-American who had been elected as the County Executive Isiah Leggett, who believed that there significant numbers of white voters who would support African-American candidates.

From the regressions I have undertaken, I would characterize the level of polarization as moderate: enough to warrant protections but not so great as to exclude many white areas from the multi-racial coalitions. Moreover, as I mentioned before, at least in 2008, Hispanic voting patterns more closely resembled non-Hispanic whites than African-Americans and Asian-Americans.

An additional consideration about the merits of majority minority VAP coalitions versus coalitions that include supportive white populations in Maryland is demographic and relates to the "one person, one vote" rationale that is the reason for undertaking the difficult task of redistricting in the first place. Different coalitional combinations will have varying implications for population growth in the district over the decade. The spirit of the "one person, one vote" decisions is to try to equalize the weight of every vote by giving all the districts the same population. Placing faster growing populations together can cause district populations to grow out of balance more quickly over the decade than combining them with slower growing populations. Thus, a policy of systematically combining fast growing Latino areas in Montgomery County with fast growing African American areas could lead to greater mal-apportionment over the decade.

In sum, for all the reasons stated above, I find the Governor's Maryland Congressional Redistricting Plan meets the conditions of Section 2 of the Voting Rights Act.

Election: 2012 PRESIDENTIAL GENERAL ELECTION
Election Date: 11/6/2012
STATEWIDE

*As of 10/21/2012

Legislative Districts in this report reflect the districts as defined prior to the 2010 Census.

Countywide Counts

	Dems	Reps	Grn	Lib	UNA	OTH	Subtotal
Allegany	15,557	20,006	121	143	5,891	410	42,128
Anne Arundel	149,232	125,386	874	1,393	71,623	262	348,770
Baltimore City	309,078	33,005	1,401	917	46,649	1,534	392,584
Baltimore County	297,941	132,720	1,338	1,806	75,760	5,843	515,408
Calvert	23,349	23,448	136	192	11,201	535	58,863
Caroline	7,183	7,636	36	59	3,106	141	18,165
Carroll	32,778	56,870	270	399	19,092	985	110,394
Cecil	24,197	24,372	140	244	12,824	744	62,521
Charles	55,690	25,339	140	234	15,712	572	97,687
Dorchester	10,414	7,131	25	47	2,424	126	20,167
Frederick	54,564	61,079	401	577	31,441	94	148,156
Garrett	4,724	11,825	36	52	2,084	208	18,729
Harford	63,549	67,467	315	649	26,855	1,133	159,968
Howard	90,072	56,330	471	698	36,779	2,398	186,748
Kent	6,095	4,572	35	44	1,706	140	12,594
Montgomery	345,449	125,185	1,509	1,745	139,040	3,072	616,000
Prince George's	443,643	47,472	765	940	56,106	19,665	568,591
Queen Anne's	11,366	15,284	64	111	5,295	209	32,329
Saint Mary's	25,295	25,721	144	245	12,049	469	63,923
Somerset	7,249	4,600	19	30	1,694	121	13,713
Talbot	9,896	10,979	48	91	4,012	267	25,295
Washington	31,750	38,551	236	322	16,150	282	87,291
Wicomico	25,474	20,855	117	192	9,310	676	56,424
Worcester	14,997	14,423	71	126	6,080	382	36,079
	2,059,844	969,859	8,715	11,256	614,867	40,266	3,694,527

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Election: 2012 PRESIDENTIAL GENERAL ELECTION
Election Date: 11/6/2012
STATEWIDE

*As of 10/21/2012

Legislative Districts in this report reflect the districts as defined prior to the 2010 Census.

Counts by Congressional District

	Dems	Reps	Grn	Lib	UNA	OTH	Subtotal
Congr. Dist: 01	181,774	200,601	967	1,656	76,428	4,411	465,837
Congr. Dist: 02	255,486	97,106	992	1,507	66,071	3,813	426,977
Congr. Dist: 03	253,626	116,393	1,389	1,725	86,771	2,620	461,524
Congr. Dist: 04	329,027	74,939	662	966	56,932	11,171	473,697
Congr. Dist: 05	260,799	118,128	951	1,319	72,544	10,184	483,915
Congr. Dist: 06	192,620	145,620	1,045	1,456	94,074	2,077	437,094
Congr. Dist: 07	326,950	76,475	1,436	1,186	61,511	3,675	473,233
Congr. Dist: 08	239,070	129,596	1,274	1,439	98,556	2,315	472,250
	2,059,544	959,858	8,716	11,256	614,887	40,266	3,694,527

Election: 2012 PRESIDENTIAL GENERAL ELECTION
Election Date: 11/6/2012
STATEWIDE

*As of 10/21/2012

Legislative Districts in this report reflect the districts as defined prior to the 2010 Census.

Counts by Legislative District

	Dems	Reps	Grn	Lib	UNA	OTH	Subtotal
Legis. Dist: 01A	6,227	14,945	48	63	2,736	245	24,264
Legis. Dist: 01B	8,153	10,749	68	67	3,074	211	22,322
Legis. Dist: 01C	8,496	10,699	66	90	3,597	168	23,106
Legis. Dist: 02A	9,847	13,960	66	97	5,152	79	29,101
Legis. Dist: 02B	8,674	11,850	77	109	4,879	89	25,678
Legis. Dist: 02C	9,965	7,597	65	86	4,432	79	22,224
Legis. Dist: 03A	24,558	18,608	183	249	12,155	34	55,787
Legis. Dist: 03B	12,996	14,843	87	118	7,994	38	36,076
Legis. Dist: 04A	16,220	25,985	126	197	10,687	27	53,242
Legis. Dist: 04B	8,033	15,189	56	104	5,177	232	28,791
Legis. Dist: 05A	17,107	29,068	145	214	9,505	476	56,515
Legis. Dist: 05B	11,501	15,015	108	135	4,812	470	32,041
Legis. Dist: 06	38,172	15,464	142	251	10,264	701	64,994
Legis. Dist: 07	37,006	30,245	159	327	13,248	901	81,886
Legis. Dist: 08	42,201	22,848	196	283	11,547	843	77,717
Legis. Dist: 09A	26,302	25,442	179	226	13,272	884	66,307
Legis. Dist: 09B	8,895	14,768	79	99	5,270	279	29,390
Legis. Dist: 10	63,151	7,375	164	166	8,996	658	80,510
Legis. Dist: 11	57,284	17,864	162	255	12,434	997	88,996
Legis. Dist: 12A	24,290	15,252	149	203	9,113	606	49,613
Legis. Dist: 12B	16,096	5,632	70	104	5,479	345	27,726
Legis. Dist: 13	42,840	21,614	196	316	17,554	1,043	83,563
Legis. Dist: 14	43,817	21,614	174	240	16,996	362	83,203
Legis. Dist: 15	43,939	23,323	152	236	23,960	482	92,092
Legis. Dist: 16	48,306	16,988	155	211	19,611	490	85,761
Legis. Dist: 17	40,881	14,942	190	279	19,337	381	76,010
Legis. Dist: 18	45,235	12,154	214	209	15,300	350	73,462
Legis. Dist: 19	42,682	15,965	146	172	15,306	371	74,842
Legis. Dist: 20	44,877	6,568	321	200	12,510	303	64,779
Legis. Dist: 21	45,026	12,553	166	282	13,083	2,620	73,729
Legis. Dist: 22	43,248	5,992	201	146	7,462	2,564	59,633
Legis. Dist: 23A	39,629	9,585	66	109	6,941	2,489	59,018
Legis. Dist: 23B	27,369	3,120	34	49	3,341	954	34,867
Legis. Dist: 24	67,843	2,410	52	71	5,617	2,274	78,267
Legis. Dist: 25	69,354	3,426	49	91	5,844	2,322	81,086
Legis. Dist: 26	69,751	4,482	56	88	6,080	2,598	83,055

*As of 10/21/2012

Legislative Districts in this report reflect the districts as defined prior to the 2010 Census.

Legis. Dist: 27A	53,105	10,097	77	110	6,794	2,035	72,218
Legis. Dist: 27B	12,271	11,279	64	84	5,621	278	29,597
Legis. Dist: 28	54,739	24,486	135	230	15,321	556	95,467
Legis. Dist: 29A	11,829	11,944	50	86	5,056	224	29,189
Legis. Dist: 29B	12,430	11,871	67	144	6,293	227	31,052
Legis. Dist: 29C	9,959	10,955	67	105	5,203	209	26,498
Legis. Dist: 30	35,576	30,127	266	359	17,463	51	83,843
Legis. Dist: 31	33,573	28,156	173	292	15,333	60	77,589
Legis. Dist: 32	36,448	22,936	191	325	16,429	68	78,399
Legis. Dist: 33A	22,223	26,896	148	237	12,839	45	62,388
Legis. Dist: 33B	11,946	13,990	75	113	6,439	23	32,586
Legis. Dist: 34A	25,832	14,746	103	223	9,121	388	50,413
Legis. Dist: 34B	10,720	12,531	71	114	5,800	345	29,581
Legis. Dist: 36A	19,105	30,191	119	214	9,073	398	59,100
Legis. Dist: 36B	10,695	13,516	65	113	5,075	199	29,663
Legis. Dist: 38	33,850	34,828	181	314	15,338	799	85,310
Legis. Dist: 37A	14,135	5,554	34	71	3,254	184	23,232
Legis. Dist: 37B	22,291	24,390	99	179	8,452	528	55,939
Legis. Dist: 38A	11,805	9,360	40	60	3,590	278	25,133
Legis. Dist: 38B	23,693	22,653	129	204	9,839	660	57,178
Legis. Dist: 39	35,712	13,631	157	198	16,020	333	66,051
Legis. Dist: 40	51,334	3,786	416	179	7,601	218	63,534
Legis. Dist: 41	57,522	5,130	132	111	6,780	243	69,918
Legis. Dist: 42	37,464	21,851	314	337	11,590	953	72,509
Legis. Dist: 43	55,421	4,724	324	112	7,218	245	68,044
Legis. Dist: 44	47,778	3,713	160	107	6,338	241	58,337
Legis. Dist: 45	53,036	4,665	136	94	5,696	234	63,862
Legis. Dist: 46	43,985	10,987	234	314	13,016	353	68,889
Legis. Dist: 47	38,688	3,055	107	83	5,512	1,906	49,351
	2,059,544	969,858	8,716	11,256	614,887	40,266	3,694,527

Election: 2012 PRESIDENTIAL GENERAL ELECTION
Election Date: 11/6/2012
STATEWIDE

*As of 10/21/2012

Legislative Districts in this report reflect the districts as defined prior to the 2010 Census.

Counts by Age, Gender, and Party

*According to Maryland State Law, voters who will be 18 and eligible to vote by a General Election are eligible to Vote in the related primary

		Female						Male						Unspecified					
	TOTAL	17 & below	18-24	25-44	45-65	66 & above	Subtotal	17 & below	18-24	25-44	45-65	66 & above	Subtotal	17 & below	18-24	25-44	45-65	66 & above	Subtotal
DEM	2,068,844	0	116,895	388,966	474,186	230,185	1,210,237	0	91,961	263,849	338,886	155,427	848,136	0	390	388	310	80	1,168
REP	969,886	0	40,956	136,624	196,861	94,914	469,355	0	45,407	147,401	214,186	83,122	490,126	0	111	108	108	41	371
AME	131	0	11	28	15	7	61	0	25	22	23	4	74	0	0	0	0	0	0
UNA	614,887	0	48,472	132,464	91,999	24,080	296,015	0	48,486	139,452	104,149	27,101	319,190	0	136	295	182	60	673
OTH	80,236	0	3,466	10,930	9,061	3,310	26,770	0	4,012	13,895	11,754	3,740	33,401	0	22	22	17	6	67
TOTAL	3,694,886	0	207,806	669,015	772,125	352,491	2,001,437	0	189,913	564,619	667,011	269,389	1,890,933	0	661	815	617	196	2,288

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

O. John Benisek, et al. *Plaintiffs*, vs. Linda H. Lamone, et al., *Defendants*.	Case No. 13-cv-3233 Three-Judge Court

PLAINTIFFS' FIRST SUPPLEMENTAL RESPONSES AND OBJECTIONS TO DEFENDANTS FIRST SET OF INTERROGATORIES

Pursuant to Federal Rules of Civil Procedure 26 and 33 and Local Rule 104, Plaintiffs hereby submit their Responses and Objections to Defendants' First Set of Interrogatories. Plaintiffs reserve the right to amend and supplement these responses and objections to the extent allowed by the Federal Rules of Civil Procedure and the Orders and Local Rules of the District of Maryland.

GENERAL STATEMENT AND OBJECTIONS

The following General Statement and Objections apply to each of the interrogatories propounded by Defendants and, unless otherwise stated, shall have the same force and effect as if set forth in response to each of the separate interrogatories. By providing their responses to Defendants' First Set of Interrogatories, Plaintiffs do not concede that the information provided is relevant to the claims or defenses of any party, proportionate to the needs of the case, or could lead to the discovery of admissible evidence.

1. Defendants object to the interrogatories to the extent that Plaintiffs have not completed all discovery (fact and expert), their investigation of the facts, or the preparation for trial in this case, and therefore Plaintiffs reserve the right to rely on any theories of liability, facts, documents, testimony, or other evidence that may be discovered or may come to light in this case.

	Congressional District that were drawn during the 2011 Congressional redistricting process; knowledge of the failure of Maryland's new Sixth Congressional District boundaries to serve communities of interest.
Unknown employees or officials of the Democratic National Committee	Knowledge of the planning or drawing of the boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process; knowledge of the intent and purpose of new boundaries of Maryland's Sixth Congressional District that were drawn during the 2011 Congressional redistricting process.
Unknown employees or officials of the Democratic Congressional Campaign Committee	Knowledge of the planning or drawing of the boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process; knowledge of the intent and purpose of new boundaries of Maryland's Sixth Congressional District that were drawn during the 2011 Congressional redistricting process.
Unknown employees of the Office of Former Governor Martin O'Malley	Knowledge of the planning or drawing of the boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process; knowledge of the data used to draw boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process; knowledge of the intent and purpose of new boundaries of Maryland's Sixth Congressional District that were drawn during the 2011 Congressional redistricting process; knowledge of the failure of Maryland's new Sixth Congressional District boundaries to serve communities of interest.

INTERROGATORY NO. 2:

Identify all voters whom you allege would otherwise register as Republican if they had not been chilled from doing so.

RESPONSE: Plaintiffs object to this interrogatory to the extent that it seeks the disclosure of information protected by the attorney-client privilege, work product immunity, or any other privilege or immunity. Plaintiffs object to this interrogatory to the extent that it calls for the premature, non-reciprocal disclosure of expert reports in violation of the Court's scheduling order. Plaintiffs also object to this interrogatory to the extent that it seeks the disclosure of information that is already in the possession, custody, or control of Defendants. Plaintiffs object to this request as overly broad and unduly burdensome as it seeks information regarding "all voters" who "would otherwise register" as

Republican if they had not been chilled from doing so. Plaintiffs further object to this request as vague and ambiguous to the extent that the term "would otherwise register" is undefined.

Further, contention interrogatories may not be used to require a party to set forth all factual information obtained in discovery regarding a particular topic. Defendants' interrogatories, "insofar as they seek every fact, every piece of evidence, every witness, and every application of law to fact—rather than, for example, certain principal or material facts, pieces of evidence, witnesses and legal applications—supporting the identified allegations, are overly broad and unduly burdensome." *Ritchie Risk-Linked Strategies Trading (Ireland) Ltd. v. Coventry First LLC*, 273 F.R.D. 367, 369 (S.D.N.Y. 2010); *see also Susquehanna Commercial Fin., Inc. v. Vascular Res., Inc.*, 2010 U.S. Dist. LEXIS 127125, at *25-37 (M.D. Pa. 2010) (denying motion to compel detailed responses to interrogatories requesting "all facts" supporting a particular contention, holding that defendants' demand for specific and "narrative response[s]" to contention interrogatories was "little more than a mark-work request. . . . since they do not only have the information, they have the written materials themselves."). Accordingly, Plaintiffs do not identify every voter who would have registered as a Republican but for enactment of the Plan. Instead, Plaintiffs describe the types of voters who have been chilled by the State's conduct from participating in politics in Maryland.

In addition, Plaintiffs object to this interrogatory because "contention interrogatories are more appropriate after a substantial amount of discovery has been conducted." *Nestle Foods Corp. v. Aetna Cas. & Sur. Co.*, 135 F.R.D. 101, 110 (D.N.J. 1990); *see also In re Convergent Techs. Secs. Litig.*, 108 F.R.D. 328, 336 (N.D. Cal. 1985) ("the wisest general policy is to defer propounding and answering contention interrogatories until near the end of the discovery period."). Plaintiffs have not completed all discovery (fact and expert), their investigation of the facts, or its preparation for trial in this case, and therefore Plaintiffs reserve the right to rely on any legal theories, facts, documents,

testimony, or evidence which may come to light during fact and expert discovery.

Subject to and without waiving the foregoing objections, Plaintiffs will supplement their answer to this interrogatory on January 16, 2017.

FIRST SUPPLEMENTAL RESPONSE: Plaintiffs further object that to prove the elements of their causes of action they are not required to show that Republican voters were chilled from registering to vote, nor are they required to identify each such Republican voter. *See Shapiro v. McManus*, — F. Supp. 3d —, 2016 WL 4445320, at *10-11 (D. Md. 2016) (discussing facts that Plaintiffs must prove at trial). As a consequence, this interrogatory is not relevant to any party's claim or defense and is not proportional to the needs of the case. Fed. R. Civ. P. 26(b)(1).

Subject to and without waiving the foregoing objections, Plaintiffs state that to the extent that a further response is required, Plaintiffs state that, after the 2011 Congressional Plan was adopted, voters in Maryland's Sixth District were chilled from participating in the political process, including registering to vote, voting, and/or supporting Republican candidates because they believed that their votes did not matter and their candidates did not have a reasonable chance of winning due to the cracking and packing of the Sixth District.

More generally, gerrymanders that "crack" blocs of like-minded voters chill political participation because those cracked voters understand that their votes "will not count" because they cannot affect the outcome. Voters in packed districts are thus discouraged from voting. Voters in cracked districts also understand that other like-minded voters' votes "will not count" and thus are less likely to participate actively in campaigning for their chosen candidates. Vote "cracking" chills political speech in an especially pernicious way in Maryland because Maryland employs a closed primary registration system. For a voter to participate in a particular political party's primary, the voter must be a registered member of that party. Registered Republicans cannot participate in

Democratic primaries, in other words, and registered Democrats cannot participate in Republican primaries. In districts where the Democratic Party's candidate is very likely to win the general election, like the new Sixth District, the only real opportunity to influence what person is ultimately elected is the Democratic primary race. Under the closed primary system, residents of the Sixth District—even those otherwise inclined to register as Republicans—must register as members of the Democratic party in order to vote in the Democratic primary and practically influence who becomes their representative.

In addition, the Congressional Plan chilled participation in general elections. Voters who feel that the outcomes of elections are preordained by the legislature's map-drawing are discouraged from casting their votes or engaging in the political process at all.

INTERROGATORY NO. 3:

> State the facts concerning your contention that Delegate James J. King was chosen without input from Republican leadership.

RESPONSE: Plaintiffs object to this interrogatory to the extent that it seeks the disclosure of information protected by the attorney-client privilege, work product immunity, or any other privilege or immunity. Plaintiffs also object to this interrogatory to the extent that it seeks the disclosure of information that is already in the possession, custody, or control of Defendants. Plaintiffs object to this request as overly broad and unduly burdensome as it seeks all facts regarding a particular contention. Plaintiffs further object to this request as vague and ambiguous to the extent that the terms "input" and "Republican leadership" are undefined.

Further, contention interrogatories may not be used to require a party to set forth all factual information obtained in discovery regarding a particular topic. Defendants' interrogatories, "insofar as they seek every fact, every piece of evidence, every witness, and every application of law to fact—rather than, for example, certain principal or material facts, pieces of evidence, witnesses and

legal applications—supporting the identified allegations, are overly broad and unduly burdensome." *Ritchie Risk-Linked Strategies Trading (Ireland) Ltd. v. Coventry First LLC*, 273 F.R.D. 367, 369 (S.D.N.Y. 2010); *see also Susquehanna Commercial Fin., Inc. v. Vascular Res., Inc.*, 2010 U.S. Dist. LEXIS 127125, at *25-37 (M.D. Pa. 2010) (denying motion to compel detailed responses to interrogatories requesting "all facts" supporting a particular contention, holding that defendants' demand for specific and "narrative response[s]" to contention interrogatories was "little more than a mark-work request. . . . since they do not only have the information, they have the written materials themselves."). Accordingly, Plaintiffs do not cite every document or fact responsive to this interrogatory. Instead, Plaintiffs will make a good faith effort to cite representative documents and facts that support their response.

In addition, Plaintiffs object to this interrogatory because "contention interrogatories are more appropriate after a substantial amount of discovery has been conducted." *Nestle Foods Corp. v. Aetna Cas. & Sur. Co.*, 135 F.R.D. 101, 110 (D.N.J. 1990); *see also In re Convergent Techs. Secs. Litig.*, 108 F.R.D. 328, 336 (N.D. Cal. 1985) ("the wisest general policy is to defer propounding and answering contention interrogatories until near the end of the discovery period."). Plaintiffs have not completed all discovery (fact and expert), their investigation of the facts, or its preparation for trial in this case, and therefore Plaintiffs reserve the right to rely on any legal theories, facts, documents, testimony, or evidence which may come to light during fact and expert discovery.

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows: On July 4, 2011, former Maryland Governor Martin O'Malley appointed all five members of the Governors' Redistricting Advisor Committee (GRAC). The members of the GRAC were Committee Chair Jeanne Hitchcock, who was Governor O'Malley's Secretary of Appointments and a former Deputy Mayor of Baltimore (serving under then Mayor O'Malley); Senate President Thomas V.

Mike Miller, Jr., a Democrat; Maryland House of Delegates Speaker Michael E. Busch, a Democrat; Richard Stewart, a private business owner who chaired Governor O'Malley's 2010 re-election campaign in Prince George's County; and Delegate James J. King, a former one-term member of the Maryland House of Delegates, a Republican. Governor O'Malley appointed Delegate King to the GRAC without consulting with leadership of the Maryland Republican Party.

INTERROGATORY NO. 4:

Identify all statistical tests referenced in ¶ 111 of the Complaint.

RESPONSE: Plaintiffs object to this interrogatory to the extent that it seeks the disclosure of information protected by the attorney-client privilege, work product immunity, or any other privilege or immunity. Plaintiffs object to this interrogatory to the extent that it calls for the premature, non-reciprocal disclosure of expert reports in violation of the Court's scheduling order. Plaintiffs further object to this request as vague and ambiguous to the extent that the terms "statistical tests" and "referenced in" are undefined.

Plaintiffs further object to this interrogatory to the extent that it seeks materials prepared by non-testifying experts retained in anticipation of litigation who are not expected to be called as witnesses at trial. Fed. R. Civ. P. 26(b)(4)(D)(ii); *see also Sara Lee Corp. v. Kraft Foods Inc.*, 273 F.R.D. 416, 420 (N.D. Ill. 2011) ("Because the materials relate solely to [an expert's] role as a non-testifying consultant, Plaintiffs may not discover them unless it can show 'exceptional circumstances under which it is impracticable for the party to obtain facts or opinions on the same subject by other means.'"); *Monarch Knitting Mach. Corp. v. Sulzer Morat GMBH*, 1998 WL 338106, at *2 (S.D.N.Y. 1998) ("Under this rule, a consulting expert who will not testify at trial, 'is generally immune from discovery.'"); *Plymovent Corp. v. Air Tech. Solutions, Inc.*, 243 F.R.D. 139, 143 (D.N.J. 2007) ("Several policy considerations underlie the rule, including, (1) encouraging counsel to obtain necessary expert advice without fear that the adversary may obtain such information; (2)

preventing unfairness that would result from allowing an opposing party to reap the benefits from another party's efforts and expense; [and] (3) preventing a chilling effect on experts serving as consultants if their testimony could be compelled."); *Mantolete v. Bolger*, 96 F.R.D. 179, 181 (D. Ariz. 1982) ("there is no need for a comparable exchange of information regarding non-witness experts who act as consultants and advisors to counsel regarding the course litigation should take.").

FIRST SUPPLEMENTAL RESPONSE: Plaintiffs further object to this interrogatory to the extent that it seeks the premature, non-reciprocal disclosure of expert witness reports. Plaintiffs will disclose further statistical tests supporting its allegations pursuant to Fed. R. Civ. P. 26(a)(2) on the date required by the Court's scheduling order. *See* ECF No. 108 at 2.

Subject to and without waiving the foregoing objections, Plaintiffs state that the statistical tests referenced in paragraph 111 of their Second Amended Complaint include the tests discussed in greater detail in:

- Nicholas O. Stephanopoulos & Eric M. McGhee, *Partisan Gerrymandering and the Efficiency Gap*, 82 U. Chi L. Rev. 831 (2015); and
- Samuel H. Wang, *Three Tests for Practical Evaluation of Partisan Gerrymandering*, 68 Stanford L. Rev. 1263 (2016).

INTERROGATORY NO. 5:

List all addresses at which you have resided since reaching voting-age and the dates you resided at each address.

RESPONSE: Plaintiffs object to this interrogatory to the extent that it seeks the disclosure of information protected by the attorney-client privilege, work product immunity, or any other privilege or immunity. Plaintiffs also object to this request as unduly burdensome, not proportionate to the needs of the case, and not relevant to any party's claim or defense to the extent that it seeks discovery before January 1, 2011 or after November 1, 2011. Plaintiffs further object to this request

as vague and ambiguous to the extent that the term "voting-age" and "resided" are undefined.

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows: O. John Benisek is a citizen of the United States and a resident of and active eligible voter in Maryland. Before enactment of the Plan, Mr. Benisek's voter registration address was in Maryland's Sixth Congressional District. Following enactment of the Plan, his voter registration address remains in the Sixth Congressional District. Mr. Benisek has been an eligible Maryland voter since 1966. He has resided at the following addresses or in the following cities in the State since that time: College Park, MD (1963-1977); White Oak, MD (1973-1977); 5113 Porterstown Road in Keedysville, MD 21756 (1978-1990); and 11237 Kemps Mill Road in Williamsport, MD 21795 (1990-present).

Edmund Cueman is a citizen of the United States and a resident of and active eligible voter in Maryland. Before enactment of the Plan, Mr. Cueman's voter registration address was in Maryland's Sixth Congressional District. Following enactment of the Plan, his voter registration address is in the Eighth Congressional District. Mr. Cueman has been an eligible Maryland voter since 1961. He has resided at the following addresses in the State since that time: 304 W. Federal Street, Snow Hill, MD 21863 (1963-1968); 202 W. Martin Street, Snow Hill, MD 21863 (1968-1971); Baltimore Boulevard, Finksburg, MD 21048 (1971-1973); and 1201 Woods Rd., Westminster, MD 21158 (1973-Present).

Jeremiah DeWolf is a citizen of the United States and a resident of and active eligible voter in Maryland. Before enactment of the Plan, Mr. DeWolf 's voter registration address was in Maryland's Sixth Congressional District. Following enactment of the Plan, his voter registration address remains in the Sixth Congressional District. Mr. DeWolf has been an eligible Maryland voter since 2007. He has resided at 4709 Mt. Briar Road, Keedysville, MD 21756, since that time.

Charles W. Eyler, Jr., is a citizen of the United States and a resident of and active eligible

voter in Maryland. Before enactment of the Plan, Mr. Eyler's voter registration address was in Maryland's Sixth Congressional District. Following enactment of the Plan, his voter registration address is in the Eighth Congressional District. Mr. Eyler has been an eligible Maryland voter since 1970. He has resided at the following addresses in the State since that time: Schley Ave., Frederick, MD 21701 (1971-1973); Eyler Road, Thurmont, MD 21788 (1973-1976); and 13249 Creagerstown Road, Thurmont, MD 21788 (1976-Present).

Kat O'Connor is a citizen of the United States and a resident of and active eligible voter in Maryland. Before enactment of the Plan, Ms. O'Connor's voter registration address was in Maryland's Sixth Congressional District. Following enactment of the Plan, her voter registration address remains in the Sixth Congressional District. Ms. O'Connor has been an eligible Maryland voter since 1985. She has resided at the following addresses in the State since 1998: 11411 Seneca Valley Drive, Germantown, MD 20874 (1998-2003); and 9321 Watkins Road Gaithersburg, MD 20882 (2003-present).

Alonnie L. Ropp is a citizen of the United States and a resident of and active eligible voter in Maryland. Before enactment of the Plan, Ms. Ropp's voter registration address was in Maryland's Sixth Congressional District. Following enactment of the Plan, her voter registration address is in the Eighth Congressional District. Ms. Ropp has been an eligible Maryland voter from 1989 through 1996 and 1999 through the present. She resided at the following addresses between 1989 and 1996: 10021 Harp Road, Walkersville, MD 21793; 3 East 2nd Street, Frederick, MD 21701; 1300 Taney Avenue, Frederick, MD 21702; 103 E 8th Street, Frederick, MD 21701; 7 East 13th Street, Frederick, MD 21701. Ms. Ropp has resided at the following addresses since 1999: an apartment at Springwater Court, Frederick, MD 21701 (1999-2002); 8410 Myersville Road, Middletown, MD (2002-November 2016); 8543 Pete Wiles Road, Middletown, MD (November 2016-present).

Sharon Strine is a citizen of the United States and a resident of and active eligible voter in Maryland. Before enactment of the Plan, Ms. Strine's voter registration address was in Maryland's Sixth Congressional District. Following enactment of the Plan, her voter registration address is in the Eighth Congressional District. Ms. Strine has been an eligible Maryland voter since 1982. She has resided at the following addresses in the State since that time: 11611 Harp Hill Road, Myersville, MD 21773 (1972-1983); 312 Broad Street, Middletown MD 21783 (1983-1984); 12610 Loy Wolfe Road, Myersville MD 21773 (1984-1996); and 12709 Martin Road, Smithsburg, MD 21783 (1996-Present).

INTERROGATORY NO. 6:

> Identify any alternative redistricting plan that satisfies all of the constitutional requirements for congressional reapportionment without diluting either party's votes to a constitutionally significant degree that was submitted to the GRAC.

RESPONSE: Plaintiffs object to this interrogatory to the extent that it seeks the disclosure of information protected by the attorney-client privilege, work product immunity, or any other privilege or immunity. Plaintiffs object to this interrogatory to the extent that it calls for the premature, non-reciprocal disclosure of expert reports in violation of the Court's scheduling order. Plaintiffs further object to this request as vague and ambiguous to the extent that the terms "alternative redistricting plan," "constitutional requirements for congressional reapportionment," and "diluting either party's votes to a constitutionally significant degree" are undefined.

Plaintiffs further object to this interrogatory to the extent that it seeks materials prepared by non-testifying experts retained in anticipation of litigation who are not expected to be called as witnesses at trial. Fed. R. Civ. P. 26(b)(4)(D)(ii); *see also Sara Lee Corp. v. Kraft Foods Inc.*, 273 F.R.D. 416, 420 (N.D. Ill. 2011) ("Because the materials relate solely to [an expert's] role as a non-testifying consultant, Plaintiffs may not discover them unless it can show 'exceptional circumstances under which it is impracticable for the party to obtain facts or opinions on the same subject by other

means.'"); *Monarch Knitting Mach. Corp. v. Sulzer Morat GMBH*, 1998 WL 338106, at *2 (S.D.N.Y. 1998) ("Under this rule, a consulting expert who will not testify at trial, 'is generally immune from discovery.'"); *Plymovent Corp. v. Air Tech. Solutions, Inc.*, 243 F.R.D. 139, 143 (D.N.J. 2007) ("Several policy considerations underlie the rule, including, (1) encouraging counsel to obtain necessary expert advice without fear that the adversary may obtain such information; (2) preventing unfairness that would result from allowing an opposing party to reap the benefits from another party's efforts and expense; [and] (3) preventing a chilling effect on experts serving as consultants if their testimony could be compelled."); *Mantolete v. Bolger*, 96 F.R.D. 179, 181 (D. Ariz. 1982) ("there is no need for a comparable exchange of information regarding non-witness experts who act as consultants and advisors to counsel regarding the course litigation should take.").

FIRST SUPPLEMENTAL RESPONSE: Plaintiffs' further object on the basis that it is not Plaintiffs burden to produce an alternative redistricting proposal that would comply with all constitutional requirements for Congressional reapportionment. That was (and continues to be) the responsibility of the State of Maryland. Plaintiffs are not required to present an alternative plan for Congressional reapportionment in order to receive the injunctive relief that they seek. *See Shapiro v. McManus*, — F. Supp. 3d —, 2016 WL 4445320, at *10-11 (D. Md. 2016) (discussing facts that Plaintiffs must prove at trial). As a consequence, this interrogatory is not relevant to any party's claim or defense and is not proportional to the needs of the case. Fed. R. Civ. P. 26(b)(1).

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows: Should the Court require Plaintiffs to produce an alternative redistricting proposal after entering a declaration in their favor, Plaintiffs will do so at the time designated by the Court.

INTERROGATORY NO. 7:

> Identify and state the facts concerning all acts by defendants, members of the General Assembly, members of the GRAC, and Governor O'Malley, taken either individually or as

any group, that you contend were done to punish, sanction, target or retaliate against the plaintiffs because of the plaintiffs' protected speech. For any act that you identify, please describe the act, the date the it occurred, the person who was targeted, the persons who took the act, and the protected First amendment activity you allege was the basis for any punishment, sanction, targeting or retaliation.

RESPONSE: Plaintiffs object to this interrogatory to the extent that it seeks the disclosure of information protected by the attorney-client privilege, work product immunity, or any other privilege or immunity. Plaintiffs also object to this interrogatory to the extent that it seeks the disclosure of information that is already in the possession, custody, or control of Defendants. Plaintiffs object to this request as overly broad and unduly burdensome as it seeks all facts regarding a particular contention. Plaintiffs further object to this request as vague and ambiguous to the extent that the terms "General Assembly," "Governor O'Malley," "punish," "sanction," "target," "retaliate," "protected speech," "punishment," and "retaliation" are undefined.

Further, contention interrogatories may not be used to require a party to set forth all factual information obtained in discovery regarding a particular topic. Defendants' interrogatories, "insofar as they seek every fact, every piece of evidence, every witness, and every application of law to fact—rather than, for example, certain principal or material facts, pieces of evidence, witnesses and legal applications—supporting the identified allegations, are overly broad and unduly burdensome." *Ritchie Risk-Linked Strategies Trading (Ireland) Ltd. v. Coventry First LLC*, 273 F.R.D. 367, 369 (S.D.N.Y. 2010); *see also Susquehanna Commercial Fin., Inc. v. Vascular Res., Inc.*, 2010 U.S. Dist. LEXIS 127125, at *25-37 (M.D. Pa. 2010) (denying motion to compel detailed responses to interrogatories requesting "all facts" supporting a particular contention, holding that defendants' demand for specific and "narrative response[s]" to contention interrogatories was "little more than a mark-work request. . . . since they do not only have the information, they have the written materials themselves.").

Moreover, Plaintiffs object to this interrogatory because it is an improper "blockbuster interrogatory" that "is overbroad and unduly burdensome on its face." *Bat v. A.G. Edwards & Sons, Inc.*, 2005 WL 6776838, at *3 (D. Colo. 2005). "[C]ourts have held that unnecessarily broad interrogatories, or 'blockbuster' interrogatories, which require a party to state every fact supporting all of its allegations, as well as identify each person with knowledge of each fact and all documents supporting each count, are impermissible." *HBC Fin. Corp. v. Kennedy*, 2016 WL 6216179, at *2 (S.D. Miss. 2016); *see also Nieman v. Hale*, 2013 WL 6814789, at *11 (N.D. Tex. 2013) (denying motion to compel response to "blockbuster" interrogatory); *Brasssell v. Turner*, 2006 WL 1806465, at *2 (S.D. Miss. 2006) (finding interrogatories overly broad an unduly burdensome where they sought an open-ended narrative that was not tailored in any way); *Gynberg v. Total S.A.*, 2006 WL 1186836, at *7 (D. Colo. 2006) (denying motion to compel answer to "blockbuster" interrogatory). "Indiscriminate use of blockbuster interrogatories, such as these, do not comport with the just, speedy, and inexpensive determination of an action. To require answers for them would more likely cause delay and unreasonable expense of time, energy, and perhaps money." *Hilt v. SFC, Inc*, 170 F.R.D. 182, 186-87 (D. Kan. 1997) (denying motion to compel interrogatory response).

Accordingly, Plaintiffs do not cite every document or fact responsive to this interrogatory. Instead, Plaintiffs will make a good faith effort to cite representative documents and facts that support their response. *See, e.g., K.R.S. v. Bredford Cmty. School Dist.*, 2014 WL 11513167, at *3 (S.D. Iowa 2014) (Courts emphasize that '[c]ontention interrogatories should not require a party to provide the equivalent of a narrative account of the case.' . . . When faced with contention interrogatories with overly broad language, courts typically direct that an answer still be provided but narrow the scope of the needed response to the 'material' or 'principal' facts supporting a specific claim or defense.") (citations omitted).

In addition, Plaintiffs object to this interrogatory because "contention interrogatories are more appropriate after a substantial amount of discovery has been conducted." *Nestle Foods Corp. v. Aetna Cas. & Sur. Co.*, 135 F.R.D. 101, 110 (D.N.J. 1990); *see also In re Convergent Techs. Secs. Litig.*, 108 F.R.D. 328, 336 (N.D. Cal. 1985) ("the wisest general policy is to defer propounding and answering contention interrogatories until near the end of the discovery period."). Plaintiffs have not completed all discovery (fact and expert), their investigation of the facts, or its preparation for trial in this case, and therefore Plaintiffs reserve the right to rely on any legal theories, facts, documents, testimony, or evidence which may come to light during fact and expert discovery.

Subject to and without waiving the foregoing objections, Plaintiffs will supplement their answer to this interrogatory on January 16, 2017.

FIRST SUPPLEMENTAL RESPONSE: Subject to and without waiving the foregoing objections, Plaintiffs state that Defendants, GRAC members, and legislators have refused to produce documents regarding the intent and purpose of the 2011 Congressional Plan. As a result, Plaintiffs cannot fully answer this interrogatory. When Defendants and other current and former Maryland state officials duly produce the documents and testimony required by Plaintiffs' discovery requests, Plaintiffs will supplement this interrogatory response.

In addition, Defendants, legislators, legislative staffers, state agencies, and members of former Governor O'Malley staff failed to preserve documents and electronically stored information relevant to this litigation after they reasonably anticipated litigation regarding the 2011 Congressional Plan. As a result of this spoliation, Plaintiffs cannot fully answer this interrogatory.

To the extent that a further response is required:

I. **Voters in the Sixth Congressional District Have Well-Established Conservative Political Views.** Historically, Maryland's Sixth Congressional District has been reliably Republican.

In the 70 years between January 1943 and January 2013, the district was represented in Congress by members of the Republican Party in four out of every five years. Prior to the General Assembly's adoption of the 2011 Congressional Plan, the Sixth District had been Maryland's most Republican district, represented for nearly 20 years by Republican Roscoe Bartlett, who won reelection in 2010 by a 28-point margin. Under the 2001 redistricting map, the district included all of western Maryland and stretched across the northern border of Maryland to encompass other rural areas of the State.

2. The GRAC and General Assembly Cracked Republicans in the Sixth Congressional District. Plaintiffs state that on July 4, 2011, former Maryland Governor Martin O'Malley appointed five members to the Governor's Redistricting Advisory Committee (GRAC). The five members of the GRAC were: (1) Committee Chair, Jeanne Hitchcock, who was Governor O'Malley's Secretary of Appointments and a Deputy Mayor of Baltimore, reporting to then-Mayor O'Malley; (2) Senate President Thomas V. Mike Miller, Jr., a Democrat; (3) Maryland House of Delegates Speaker Michael E. Busch, a Democrat; (4) James J. King, a former one-term member of the Maryland House of Delegates who served as a Republican, but was chosen without input from Republican leadership; and (5) Richard Stewart, a private business owner who chaired former

Governor O'Malley's 2010 re-election campaign in Prince George's County. As a consequence, four of the five members of the GRAC were either long-serving Maryland Democrats or advisors close to the then-Democratic governor.

The GRAC was tasked with drafting a recommended plan for Maryland's congressional redistricting in light of the 2010 census results. Although the GRAC held public hearings around the Maryland, these hearings were mere window dressing. All of the GRAC's public meetings were held before the GRAC released its draft Congressional map to the public and none were held after. In addition, several public hearings were held at times when many citizens interested in the redistricting process could not attend.

In fact, the GRAC's plan was developed in secret by the four Democratic members of the GRAC with the assistance of a cadre of senior aides to Governor O'Malley, Senate President Thomas V. Mike Miller, Jr., and Speaker Michael E. Busch. Many of these senior aides had access to the GRAC's draft Congressional Plan before it was made public, including: Patrick Murray, a former legislative aide to Senate President Thomas V. Mike Miller, Jr.; Yaakov Weissman, a legislative aide to Senate President Thomas V. Mike Miller, Jr.; Jeremy Baker, a legislative aide to Maryland House of Delegates Speaker Michael E. Busch; and Joseph E. Bryce, an aide to former Governor Martin O'Malley.

The GRAC and these aides used data reflecting citizen's voting history and party affiliation for the purpose of making it harder for Republican voters in western Maryland to achieve electoral success because of the views they had previously expressed. These aides and the Democratic GRAC members had access to Maryland voter registration data, including information regarding party registration, voting histories, and the precinct-level data regarding the percentage of voters that that voted for the Republican and Democratic candidates in the 2008 presidential election and 2010

Maryland gubernatorial election. Using this data, aides to Senate President Miller drafted four proposed Congressional maps. These maps known colloquially as Option 1, Option 2, Option 3, and Option 4 were considered by the GRAC. Information regarding the percentage of voters that that voted for the Republican and Democratic candidates in the 2008 presidential election and 2010 Maryland gubernatorial election were appended to these maps. For example, for Option 1, which was also known as "Dem Option 1," the following information was provided to Democratic GRAC members and Democratic members of the Maryland General Assembly:

Data Grids 1

District	Population	Deviation	% Deviation	G10G_D	G10G_R	G10G_Oth	G10G_Tot	G10G_D%	G10G_R%	G10G_Oth%
1	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
2	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
3	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
4	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
5	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
6	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
7	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
8	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

In the above chart, "District" refers to the eight Congressional districts in Maryland; G10G_D refers to the number of votes cast for the Democratic candidate in the 2010 Maryland

Gubernatorial election; G10G_RV refers to the number of votes cast for the Republican candidate in the 2010 Maryland Gubernatorial election; G08P_DV refers to the number of votes cast for the Democratic candidate in the 2008 Presidential election; and G08P_RV refers to the number of votes cast for the Republican candidate in the 2008 Presidential election. The GRAC, key aides to the GRAC, and the General Assembly thus explicitly considered the voting histories and party affiliations of Republican voters in western Maryland.

As shown in the map below, "Dem Option 1" became the basic blueprint of the GRAC's draft plan and the plan that was ultimately approved by the General Assembly. Like the draft and final plans, Dem Option 1 added heavily Democratic portions of Frederick, Maryland and western portions of Montgomery County to Maryland's Sixth Congressional District.

Maryland 2011 Congressional District 6
Senate Bill 1
October 20, 2011

More specifically, the GRAC cracked the effective Republican majority in the old Sixth District by removing over 360,000 residents from mostly-Republican northern counties of the district and adding nearly 350,000 residents from predominantly Democratic and urban Montgomery

County. In particular, the Congressional Plan removed from the Sixth District all of Carroll County, which had voted 68% Republican and 27% Democratic in the previous congressional election. The removal of Carroll County generated a loss of 24,000 registered Republican voters from the Sixth District. The Congressional Plan also moved specific, majority-Republican precincts of Frederick County to Maryland's Eighth Congressional District, while leaving the majority-Democratic precincts of the county in the Sixth District. The Frederick County precincts that remained in the Sixth District contained over 6,000 more registered Democrats than registered Republicans. The opposite pattern is true with regard to the transfer of voters from Montgomery County. Of the Montgomery County precincts that were added to the Sixth District by the Congressional Plan, registered Democrats outnumbered registered Republicans by a two-to-one margin. Moving these cherry-picked portions of Montgomery County into the Sixth District generated a gain of tens of thousands of Democratic voters. In total, the Congressional Plan accomplished a net transfer of over 65,000 Republican voters out of the Sixth District and over 30,000 voters into the district. As a result, whereas Republican voters had comprised 47% of all voters in the Sixth District before the Congressional Plan, they comprise just 33% of the Sixth District after the Congressional Plan.

In redrawing the boundaries of the Sixth District, the GRAC and their aids, the Governor and his aides, and the Maryland General Assembly on their aides were motivated by a specific intent to burden Republican voters in Western Maryland. "[I]t is not a well-kept secret that the plan for the sixth congressional district was developed for the purpose of disadvantaging an incumbent Republican legislator." *Fletcher v. Lamone*, 831 F. Supp. 2d 887, 905-06 (D. Md. 2011). Contrary to their position in this litigation, the Office of Attorney General has admitted that:

- "The [Congressional] Plan the product of the careful consideration of a variety of . . . principles, including . . . partisan considerations." State's Opening Summary Judgment Brief

at 41, *Fletcher v. Lamone*, No. 11-cv-3220-RWT (D. Md.).

- "[T]he plan was driven, to a large extent, by the desire to make an additional district more politically competitive while protecting the other current incumbents." *Id.* at 42.
- The Governor, the GRAC, and the General Assembly "all considered and gave effect to a variety of . . . considerations . . . [including] partisan political considerations." State's Reply Brief in Support of Summary Judgment at 18, *Fletcher v. Lamone*, No. 11-cv-3220-RWT (D. Md.).

In an October 31, 2012 speech at the Community College of Baltimore County, Essex Campus, the then-Attorney General of Maryland, Douglas Gansler, provided a frank admission that the 2011 Congressional Plan was designed to burden Republican voters in the Old Sixth District:

> The third issue is redistricting. And the redistricting is interesting because I actually have to defend the legislature in its drawings of the map. . . . So many people have a problem with the way in which the state was gerrymandered this last time. For example, in the Sixth District . . . Garrett County, Maryland, a very rural, agrarian part of the state is couple with Potomac, Maryland in Montgomery County, which is perhaps the most wealthy and lest agrarian part of the state. And, yet, they are voting for the same representative in the election between Roscoe Bartlett, a long-time Congressman, and John Delaney, sort of a new-comer on the political scene. . . . So, what happened, we have eight congressional districts, . . . the Democrats had the ability . . . to look at the state gerrymandered in such a way to make it 7 [Democratic representatives] to 1 [Republican representative]. . . . They were looking do they want to make the Eastern Shore, try that again, to make it even more Democratic and make that the seventh Democratic district, or Western Maryland. They chose Western Maryland, and its actually a 53% Democratic district.

https://www.youtube.com/watch?v=kZHVOvB8fBY. Attorney General Gansler went on to explain that even if the boundaries of the Sixth Congressional District were thrown out, the Democratic General Assembly would simply burden Republicans in the Sixth District once again:

> But the long shot of that is, even if [the Congressional Plan] gets overturned, the Democratic legislature will just go back in January redraw the lines, and they can draw essentially the same lines again.

Id.

The Attorney General was not the only senior Maryland Democrat who out-rightly confessed a specific intent to burden Republican voters in the Sixth Congressional District. Prior to the Congressional Plan being announced to the public, Democratic Senator Richard Madaleno made the following statements in a series of taped interview on September 13, 20'1:

> What you see going on elsewhere is clearly in other states that are Republican controlled they are drawing maps to try to take out Democrats, so I think there is pressure on saying look, if they are playing that game elsewhere, then in states like Maryland where Democrats control we've got to do the opposite.
>
> * * *
>
> This is a conflict between, what you could say, the heart and the mind of the Democratic party. The heart is 'Frank Kratovil had that seat [the First District] before, Frank Kratovil won before, he made hard votes on behalf of Barrack Obama, we should find a way to reward our friend Frank Kratovil.' The head is telling you, 'Look, Western Maryland, a new district focused toward western Maryland is one that you could actually pick up easier. . .' Do you reach out and help your good old friend Frank Kratovil, or do you go where, in fact, you probably have a better chance at a pick up.
>
> * * *
>
> If you go with a competitive Western Maryland district, the way that works is clearly the district comes further into Montgomery County, substantially into Montgomery County.
>
> * * *
>
> I think trying to achieve both [goals] makes it a little more difficult for everyone trying to draw the maps. But you're dealing with—one of the things that's interesting is—you're dealing with people like Mike Miller or some of the staff of the legislature who have done this several cycles, so it's not like they are a bunch of people experimenting for the first time on how to do this.

Donna Edwards, a democratic representative from the Fourth District, stated on October 11, 2011 in referenced to the Congressional Plan: "I have been one of the strongest proponents as a Democrat of drawing a seventh district for Democrats. But we can accomplish that in a different way . . . Where I have a real disagreement is in making superior the political interests to minority voting rights interests."

A week later, on October 18, 2011, on the floor of the Maryland Senate, Senator C. Anthony Muse stated:

> [L]et's just be frank. As it stands, the plan dilutes minorities, minority power and parcels out minority populations—voters—to other very different communities in order to strengthen the chances of a Democrat being elected.
>
> * * *
>
> Yes, the party walks away with maybe seven seats, but what do our minority populations walks away with?
>
> * * *
>
> I cannot support this map. It may well like up to the letter of the law, but surely not the spirit of the law nor the spirit of the democratic process. I think minorities lose with this map. Yes, the party gains. But honestly I believe the people, not the party, are the losers.

On the same day, Senator Jamie Raskin, also spoke from the Senate floor:

> [T]his is not a Maryland problem with redistricting and gerrymandering. It's an American problem. All across America, people are complaining about extremely spliced and diced, curvy, swervy districts, where elected officials choose voters before voters choose elected officials. That's the system we've got in 50 states today, in the United States. And it's a process where we dress up partisan and political ambition on both sides of the aisle in high principal, but we can all tell what's really going on. * * *
>
> To my distinguished colleagues on the other side of the aisle, the disappointment that they feel today is shared by Democrats in North Carolina, a state won by President Obama in 2008, which just had districts redrawn, ten majority Republican, three majority Democrat, with all the Democrats packed in there. In Ohio, a state that was won by the President Obama in 2008, 12 majority Republican districts have been drawn, four majority Democratic districts have been drawn. So they've gone way beyond anything that's been seen here. The basic problem is that we are trying to build a whole range in multiplicity of interest and factors into these single member districts, and we now have the convenience of computer technology to be able to accomplish very strange looking figures on the map.

On the floor of the House of Delegates, Delegate Emmett C. Burns, Jr. stated that he supported the Congressional Plan because it meant "more Democrats in the House of Representatives." Likewise, Democratic Speaker Michael Busch said of the Plan, "I think you will have a

very competitive 6th District when you didn't have that in the past."

Democratic Delegate Curt Anderson described an October 3, 2011 briefing given by GRAC Chair Jeanne Hitchcock about the redrawn Sixth District: "It reminded me of a weather woman standing in front of the map saying, 'Here comes a cold front,' and in this case the cold front is going to be hitting Roscoe Bartlett pretty hard." Furthermore, in an October 17, 2011 interview, Delegate Anderson stated, "What we're doing is we are trying to get more, in terms of—currently we have two Republican districts and six Democratic Congressional districts and we're going to try to move that down to seven and one, with the additional Congressional district coming out of Montgomery County and going into Western Maryland that would give the Democrats more."

On November 7, 2011, Democratic Senator Jamie Raskin explained of the redistricting process: "Democrats control the redistricting process in Maryland" and exercising that control, they "hoped to pick up a seventh House seat through redistricting."

In a letter dated October 20, 2011, Attorney General Douglas Gansler stated: "As indicted by those who participated in developing and adopting the redistricting plan, including the [GRAC], the Governor, and the General Assembly, the boundaries of the newly adopted Congressional districts reflect a number of considerations, including . . . partisan consideration."

GRAC members openly acknowledged that their intent was to crack the Sixth District. For example, GRAC member Michael Busch, the Maryland House Speaker, said: "I think the numbers will show that [the Congressional Plan] makes [the Sixth District] pretty competitive," in favor of Democrats, where as it previously was a safely Republican district. GRAC Chair Jeanne Hitchcock confirmed that purpose, noting that the Sixth District was now "dominated" by the Democratic voters in Montgomery County.

3. The GRAC and General Assembly's Specific Intent to Crack Republicans in the

Sixth District Was Successful in Changing the Outcome of Congressional Elections under the Plan. The Republican vote dilution in the Sixth District brought about by the 2011 Congressional Plan was sufficiently serious to produce a demonstrable and concrete adverse effect on Republican voters' right to have an equally effective voice in the election of a representative. Democrat John Delaney defeated Roscoe Bartlett in the election for representative to the United States Congress for the Sixth District by a 20.9% margin in 2012. He has won reelection in each election since. Moreover, as Plaintiffs will show in their forthcoming expert reports, by several statistical measures the 2011 Congressional Plan seriously diluted the votes of Republicans in the Sixth District and impaired those voters from having an equally effective voice in future congressional elections. And the Plan's dilutive effect cannot be explained by compliance with legitimate redistricting criteria, such as respect for existing communities of interest.

INTERROGATORY NO. 8:

> State all facts upon which you rely for your contention that the 2011 Maryland redistricting plan has discouraged voters in Maryland from casting votes, actively campaigning for their chosen candidates, or otherwise participating in the political process.

RESPONSE: Plaintiffs object to this interrogatory to the extent that it seeks the disclosure of information protected by the attorney-client privilege, work product immunity, or any other privilege or immunity. Plaintiffs object to this interrogatory to the extent that it calls for the premature, non-reciprocal disclosure of expert reports in violation of the Court's scheduling order. Plaintiffs also object to this interrogatory to the extent that it seeks the disclosure of information that is already in the possession, custody, or control of Defendants. Plaintiffs object to this request as overly broad and unduly burdensome as it seeks all facts regarding a particular contention. Plaintiffs further object to this request as vague and ambiguous to the extent that the terms "discouraged," "actively campaigning," and "otherwise participating in the political process" are undefined.

Further, contention interrogatories may not be used to require a party to set forth all factual

information obtained in discovery regarding a particular topic. Defendants' interrogatories, "insofar as they seek every fact, every piece of evidence, every witness, and every application of law to fact—rather than, for example, certain principal or material facts, pieces of evidence, witnesses and legal applications—supporting the identified allegations, are overly broad and unduly burdensome." *Ritchie Risk-Linked Strategies Trading (Ireland) Ltd. v. Coventry First LLC*, 273 F.R.D. 367, 369 (S.D.N.Y. 2010); *see also Susquehanna Commercial Fin., Inc. v. Vascular Res., Inc.*, 2010 U.S. Dist. LEXIS 127125, at *25-37 (M.D. Pa. 2010) (denying motion to compel detailed responses to interrogatories requesting "all facts" supporting a particular contention, holding that defendants' demand for specific and "narrative response[s]" to contention interrogatories was "little more than a mark-work request. . . . since they do not only have the information, they have the written materials themselves.").

Moreover, Plaintiffs object to this interrogatory because it is an improper "blockbuster interrogatory" that "is overbroad and unduly burdensome on its face." *Bat v. A.G. Edwards & Sons, Inc.*, 2005 WL 6776838, at *3 (D. Colo. 2005). "[C]ourts have held that unnecessarily broad interrogatories, or 'blockbuster' interrogatories, which require a party to state every fact supporting all of its allegations, as well as identify each person with knowledge of each fact and all documents supporting each count, are impermissible." *HBC Fin. Corp. v. Kennedy*, 2016 WL 6216179, at *2 (S.D. Miss. 2016); *see also Nieman v. Hale*, 2013 WL 6814789, at *11 (N.D. Tex. 2013) (denying motion to compel response to "blockbuster" interrogatory); *Brassell v. Turner*, 2006 WL 1806465, at *2 (S.D. Miss. 2006) (finding interrogatories overly broad an unduly burdensome where they sought an open-ended narrative that was not tailored in any way); *Gynberg v. Total S.A.*, 2006 WL 1186836, at *7 (D. Colo. 2006) (denying motion to compel answer to "blockbuster" interrogatory). "Indiscriminate use of blockbuster interrogatories, such as these, do not comport with the just,

speedy, and inexpensive determination of an action. To require answers for them would more likely cause delay and unreasonable expense of time, energy, and perhaps money." *Hilt v. SFC, Inc*, 170 F.R.D. 182, 186-87 (D. Kan. 1997) (denying motion to compel interrogatory response).

Accordingly, Plaintiffs do not cite every document or fact responsive to this interrogatory. Instead, Plaintiffs will make a good faith effort to cite representative documents and facts that support their response. *See, e.g., K.R.S. v. Bredford Cmty. School Dist.*, 2014 WL 11513167, at *3 (S.D. Iowa 2014) (Courts emphasize that '[c]ontention interrogatories should not require a party to provide the equivalent of a narrative account of the case.' . . . When faced with contention interrogatories with overly broad language, courts typically direct that an answer still be provided but narrow the scope of the needed response to the 'material' or 'principal' facts supporting a specific claim or defense.") (citations omitted).

In addition, Plaintiffs object to this interrogatory because "contention interrogatories are more appropriate after a substantial amount of discovery has been conducted." *Nestle Foods Corp. v. Aetna Cas. & Sur. Co.*, 135 F.R.D. 101, 110 (D.N.J. 1990); *see also In re Convergent Techs. Secs. Litig.*, 108 F.R.D. 328, 336 (N.D. Cal. 1985) ("the wisest general policy is to defer propounding and answering contention interrogatories until near the end of the discovery period."). Plaintiffs have not completed all discovery (fact and expert), their investigation of the facts, or its preparation for trial in this case, and therefore Plaintiffs reserve the right to rely on any legal theories, facts, documents, testimony, or evidence which may come to light during fact and expert discovery.

Subject to and without waiving the foregoing objections, Plaintiffs will supplement their answer to this interrogatory on January 16, 2017.

FIRST SUPPLEMENTAL RESPONSE: Plaintiffs further object that they are not required to show that Republican voters were chilled from registering to vote, nor are they required to identify

each such Republican voter. *See Shapiro v. McManus*, --- F. Supp. 3d ---, 2016 WL 4445320, at *10-11 (D. Md. 2016) (discussing facts that Plaintiffs must prove at trial). As a consequence, this interrogatory is not relevant to any party's claim or defense and is not proportional to the needs of the case. Fed. R. Civ. P. 26(b)(1).

Subject to and without waiving the foregoing objections, Plaintiffs state that to the extent that a further response is required, after the 2011 Congressional Plan was adopted, voters in Maryland's Sixth District were chilled from participating in the political process, including registering to vote, voting, and/or supporting Republican candidates because they believed that their votes did not matter and their candidates did not have a reasonable chance of winning due to the cracking of Republicans in the former Sixth District.

More specifically, the dilution of Republican's voters in Maryland has chilled and manipulated political participation since 2011. Gerrymanders that "pack" or "crack" votes chill political participation because objectively reasonable voters in such manipulated districts understand that their votes "will not count" because they cannot affect the outcome. Such voters also understand that other like-minded voters' votes "will not count" and thus are less likely to participate actively in campaigning for their chosen candidates.

Vote "cracking" chills political speech in an even more pernicious way in Maryland because Maryland employs a closed primary registration system. For a voter to participate in a particular political party's primary, the voter must be a registered member of that party. Registered Republicans cannot participate in Democratic primaries, and registered Democrats cannot participate in Republican primaries. In districts where the Democratic Party's candidate is very likely to win the general election, the only real opportunity to influence what person is ultimately elected is the Democratic primary race. Under the closed primary system, residents must register as members of

the Democratic party in order to vote in the Democratic primary.

In addition, the Congressional Plan chilled participation in general elections. Objectively reasonably voters who feel that the outcomes of elections are preordained by the legislature's map-drawing are discouraged from casting their votes or engaging in the political process at all.

Dated: January 16, 2016

/s/ Michael B. Kimberly

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NCEC Services is a Washington, DC-based political consulting firm founded in 1985. It specializes in electoral analysis, campaign strategy, political targeting, and GIS services.

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Subject: Re: meeting next wek
From: Brian Romick <brianromick@gmail.com>
Date: 3/8/2011 10:46 AM
To: jason.gleason03@gmail.com

Eric Hawkins is drawing the maps and Mark Gersh is the boss

On Tue, Mar 8, 2011 at 10:24 AM, <jason.gleason03@gmail.com> wrote:
What was the name of the other guy at NCEC? Eric and ?

Sent from my Verizon Wireless BlackBerry

From: Brian Romick <brianromick@gmail.com>
Date: Thu, 24 Feb 2011 18:12:39 -0500
To: <jason.gleason03@gmail.com>
Subject: Re: meeting next wek

Cummings asked us to move the meeting, we are going to try for after votes on Monday, which I think may actually be better

On Thu, Feb 24, 2011 at 6:10 PM, <jason.gleason03@gmail.com> wrote:
That's what I thought. Thanks.

Sent from my Verizon Wireless BlackBerry

From: Brian Romick <brianromick@gmail.com>
Date: Thu, 24 Feb 2011 18:09:40 -0500
To: Jason Gleason<jason.gleason03@gmail.com>
Subject: Re: meeting next wek

Other than the map drawing guy, my understanding from Hoyer is that he wants no staff

On Thu, Feb 24, 2011 at 5:55 PM, Jason Gleason <jason.gleason03@gmail.com> wrote:

Brian,

Is staff barred from the entire meeting next week? I know Hoyer said something about this but wasn't sure if he meant the whole thing or just a part of it.

During the previous round of redistricting, my colleagues and I developed open-source, web-accessible redistricting software called DistrictBuilder.[1] We deployed this software in Arizona, Minnesota, Michigan, Ohio, New York, Virginia, and the city of Philadelphia to support redistricting advocacy. As an open-source application others were free to use it, which occurred in Contra Costa County, California and Burlington, Vermont.

I am compensated at a rate of $280 an hour for my work on this report. I have no financial interest in the outcome of this litigation and the opinions that I offer here are in no way dependent upon my compensation.

Materials Considered In This Report

The opinions expressed in this report are based on my review of this information as well as my training and experience. In the production of this report, I have reviewed the following information:

- The Census Bureau's geographic boundary files, which include the census block assignments of the prior, benchmark congressional districts.[2]
- The block assignments for the adopted Maryland congressional districts.
- 2010 census population data adjusted by Maryland for the location of prisoners.[3]
- 2010 voter registration data by precinct and corresponded to census geography, produced in discovery for this case.
- A map of Montgomery County's 2007 precincts to address unassigned census geography in the 2010 voter registration data.[4]
- County and precinct results for the following elections: 2016 President, 2016 U.S. Senate, 2016 U.S. House, 2014 Governor, 2014 Comptroller, 2014 Attorney General, 2014 U.S. House, 2012 President, 2012 U.S. Senate, 2012 U.S. House.
- To apportion voter registration data to census blocks, I use the National Land Coverage Database to improve allocation by identifying where dwellings are located.[5]

Details of how these data were combined to produce statistics and maps presented in this report are provided in the methodology appendix. I understand that certain materials bearing on my conclusions may be produced at later stages of this case. I expect to have the opportunity to review those materials and reserve the right to revise my report and opinions, if necessary.

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[1] See: www.districtbuilder.org

[2] See: https://www.census.gov/rdo/about_the_program/public_law_94-171_requirements.html

[3] For census block assignments for Maryland's congressional districts and Maryland's prison-adjusted population data are available see: http://planning.maryland.gov/redistricting/2010/dataDownload.shtml.

[4] See: http://web.archive.org/web/20100528043305/http://www.montgomerycountymd.gov/eletmpl.asp?url=/Content/Elections/electionMapsNEW.asp.

[5] See: https://www.mrlc.gov/nlcd2011.php.

Summary

I have been retained by the Plaintiffs in this action to address the following questions:

1) Whether Maryland's 2011 Congressional Plan resulted in vote dilution that was sufficiently serious to produce a demonstrable and concrete adverse effect on a group of voters?
2) Whether the Maryland General Assembly or its mapmakers specifically intended to burden the representational rights of certain citizens because of how they voted in the past and the political party with which they had affiliated?
3) Whether the lines of the Sixth Congressional District would have been drawn as they were but for the map drawer's and General Assembly's consideration of partisan goals to the detriment of traditional redistricting principles?

With respect to the first question, the evidence is incontrovertible that Maryland's adopted Sixth Congressional District was drawn in a manner that has the effect of diminishing the ability of registered Republican voters to elect candidates of their choice compared to the previous, benchmark district. This vote dilution had a concrete impact on electoral outcomes because Republican voters in the adopted district have, as a consequence, been unable to elect a candidate of their choice.

With respect to the second question, it is my opinion that Maryland's adopted Sixth Congressional District was drawn in an intentional manner to affect the ability of registered Republicans to elect candidates of their choice compared to the previous, benchmark district.

With respect to the third question, it is my opinion that paying due respect to traditional redistricting principles, a clearly superior alternative district exists that would produce a Sixth Congressional District that would not impair as greatly the ability of registered Republicans to elect candidates of their choice. It is my opinion that, but for consideration of partisan goals – aided by map drawers' use of party registration and voting history data—the lines of the adopted district would not have been drawn as they were, and the ability of registered Republican voters to elect candidates of their choice would not have been so substantially diminished.

Methodology

I determine whether vote dilution of Republicans occurred with respect to Maryland's manipulation of the Sixth Congressional District in a manner similar to that used in voting rights litigation. This approach is drawn from my previous experience as an expert witness in voting rights litigation. Most recently, I was the plaintiff's only expert witness in *Page v. Virginia State Board of Elections*, where a federal three-judge panel found Virginia's Third Congressional District to be an unconstitutional racial gerrymander. The U.S. Supreme Court affirmed this decision.

The approach typically used in voting rights litigation includes the following steps, which closely mirror the questions Plaintiff's counsel has asked me to address:

1) First, establish the presence of racially polarized voting. Do individuals of one group reliably vote against the candidate of choice of another group?
2) Second, determine if the disfavored group's ability to elect a candidate of their choice was diminished by district lines that had an effect of diluting their vote. When assessing patterns of polarized voting and vote dilution, experts typically give more weight to *endemic* elections—those held for the office under examination, in this case the U.S. House elections to the Sixth Congressional District—than other *exogenous* elections.
3) Third, probe a redistricting authority's intent by determining whether any other reasonable discretionary criteria explain the shape of the district.

I apply this methodology to assess the effect of the 2011 redistricting on the Sixth Congressional District:

1) I find that Republican and Democratic voters have different preferences over candidates running as Republicans and Democrats. This is unsurprising given the United States' current polarized political environment.
2) I find that on balance, the current Sixth Congressional District has the effect of diluting the vote of Republicans. In the ten recent elections that I analyzed, Republicans were able to elect a candidate of their choice in only one election. For the endemic elections, Republicans were unable to elect a candidate of their choice in any congressional election in the current Sixth Congressional District.
3) I explore the intentionality by examining how well the Sixth Congressional District followed traditional redistricting principles of minimizing county splits and compactness. I find multiple violations of these traditional redistricting principles that appear to be politically motivated. Districts are not drawn in isolation to others. The adopted Sixth Congressional District is bordered by only one other district, the Eighth Congressional District. I further analyze the detrimental impact of configuring the Sixth Congressional District on traditional redistricting principles to the Eighth Congressional District. I show how the Sixth and Eighth Congressional Districts can better follow traditional redistricting principles in a manner that does not dilute Republican votes and does not affect any other congressional districts.

Factual Background

The U.S. House of Representatives has 435 members. Seats in the U.S. House of Representatives are apportioned according to population after each U.S. Census. After the 2000 Census, Maryland was entitled to eight representatives in the U.S. House of Representatives; after the 2010 Census, Maryland was again entitled to eight representatives.[6]

On July 4, 2011, Maryland Governor Martin O'Malley appointed the five members of the Governor's Redistricting Advisory Committee, or GRAC. The members of the GRAC were: (1) Jeanne D. Hitchcock, the Governor's Appointments Secretary; (2) Democratic Delegate and

[6] My recitation of the factual background is taken from the parties' Joint Stipulations of Law and Fact, Dkt. No. 104.

Speaker of the Maryland House of Delegates, Michael E. Busch; (3) Democratic Senator and President of the Maryland Senate, Thomas V. Mike Miller, Jr.; (4) Richard Stewart, a private business owner who chaired Governor O'Malley's 2010 reelection campaign in Prince George's County, Maryland; and (5) former Maryland Delegate James J. King, who was the only Republican appointed to the GRAC. The GRAC announced its proposed congressional map on October 4, 2011.

On October 15, 2011, Governor O'Malley announced that he would submit to the Maryland Legislature a congressional map that was the same as the map proposed by the GRAC. On October 17, 2011, Senate President Miller introduced Senate Bill 1 on behalf of the governor at a special legislative session. The Maryland Senate passed Senate Bill 1 on October 18, 2011. After technical amendments, the Maryland House of Delegates passed the bill on October 19, 2011. The Senate concurred in the House of Delegates' technical amendments, and the Governor signed Senate Bill 1 into law on October 20, 2011. No Republican member of the Maryland Senate or Maryland House of Delegates voted for Senate Bill 1 in committee or on the floor in recorded roll call votes.

The Benchmark and Adopted Sixth Congressional District

Before addressing directly the questions I pose, I wish to provide context by describing the political and geographic character of the Sixth Congressional District as it existed prior to the prior redistricting—what I call the benchmark district—and how it exists currently.

The facts are that Maryland's benchmark Sixth Congressional District was a predominantly Republican district, and composed of predominantly rural communities located along Maryland's Pennsylvanian border. The adopted district is a predominantly Democratic district that subsumes Republican rural communities in Maryland's panhandle by swapping some Republican rural communities previously in the district with predominately Democratic urban portions of Montgomery County not previously in the district.

Party Registration of the Benchmark and Adopted Sixth Congressional District

	Benchmark		Adopted		Change
	Number	Percent	Number	Percent	Number
Democrats	159,661	35.8%	184,120	44.8%	+24,460
Republicans	207,966	46.7%	141,548	34.4%	-66,417
No Party	77,892	17.5%	85,535	20.8%	+7,643
Total	445,518	100.0%	411,203	100.0%	-34,315

Table One. Party Registration in Maryland's Sixth Congressional District

The changing political character of the Sixth Congressional District is described in Table One, where I present party registration statistics as of the 2010 general election for the benchmark and adopted Sixth Congressional District. The summary statistics in Table One were generated using party registration data provided by Maryland to Plaintiffs in the course of discovery for the case.

In the first and second columns of Table One, I present party registration statistics for the benchmark Sixth Congressional District. The benchmark district was predominantly Republican in character, with 46.7% of the voters registering with the Republican Party, 35.8% registered with the Democratic Party, and 17.5% registered with neither party.

In the third and fourth columns of Table One, I present party registration statistics for the adopted Sixth Congressional District. The adopted district is predominantly Democratic in character, with 34.4% of voters registered with the Republican Party, 44.8% registered with the Democratic Party, and 20.8% registered with neither party.

The fifth column reveals how this dramatic change to the Sixth Congressional District occurred. In the course of redrawing the district, 66,417 registered Republicans were removed from the district and 24,460 registered Democrats were added to the district. These changes were wrought on a district that could have reasonably been immune to substantial changes: the benchmark district was located in the northwest corner of the state and needed only to shed 10,189 total population—among whom are children and other unregistered voters—in order to reach population equality.

The Benchmark Sixth Congressional District

In Figure One, I present a map of Maryland's Sixth Congressional District as it existed prior to the post-2010 redistricting. (All Figures are provided at the end of my report.) The district was located in the northwest portion of Maryland. The benchmark district included all of Maryland's panhandle, including the counties of Garrett, Allegany, Washington, Frederick, and Carroll. The district included a small portion of northeast Montgomery County, and the northern portions of Baltimore and Harford counties. The benchmark Sixth Congressional District was largely rural in character, with the largest population centers being the cities of Frederick, Hagerstown, and Cumberland.[7]

The shape of any Western Maryland district is heavily influenced by the non-compact shape of the panhandle. That said, the boundary of the benchmark Sixth Congressional District adjacent to other districts followed a relatively regular division of the state, composed primarily of the northwest portion of the state.

Figure Two shows how partisans were distributed across Maryland and its benchmark congressional districts, using the 2010 party registration data provided by Maryland to Plaintiffs. The lowest level of geography available to display party registration is the voting-tabulation district (VTD). Voting-tabulation district is a term used by the Census Bureau to describe precincts, wards, and election districts, among the many names used by states and localities. I use the term VTD to describe Maryland's precincts since this is the most accurate term to describe the data presented in Figure Two and elsewhere. Please see the methodology appendix for more information.

In Figure Two, VTDs are represented by light grey lines, and the benchmark districts are represented by thick black lines. VTDs are shaded by the partisan registration of 2010 general

[7] The Census Bureau identifies cities as census places, which are highlighted in grey in Figure 1.

election voters. VTDs that are shaded darker red are more Republican-leaning and those shaded darker blue are more Democratic-leaning by lighter colors, with least Republican-leaning areas shaded yellow and Democratic-leaning areas shaded light blue.

Figure Two illustrates the rural and Republican character of the Sixth Congressional District. Because VTDs are roughly of equal population size, larger VTDs are generally indicative of rural areas, and smaller VTDs are indicative of urban areas. The benchmark Sixth Congressional District was largely rural in character, encompassing the mountainous panhandle and rural areas along the state's northern border with Pennsylvania. These rural areas are also predominantly Republican. There were three Democratic-leaning areas of the benchmark Sixth Congressional District: the cities of Cumberland (where there are a couple of slightly leaning Democratic VTDs), Hagerstown, and Frederick.

The Adopted Sixth Congressional District

Figure Three presents the adopted Sixth Congressional District. The adopted Sixth Congressional District retained Garret, Allegany, and Washington counties, largely located in the panhandle. The adopted Sixth Congressional District no longer includes predominantly rural portions of Carroll, Baltimore, and Horford counties. The district now splits Frederick County, by removing the predominantly rural portions of the county. The district continues to split Montgomery County, although the small predominantly rural portion of northeast Montgomery County formerly in the benchmark Sixth Congressional District is removed and the adopted district extends further southeast into urban areas that include Gaithersburg and its surrounding environs.

Party registration statistics for the adopted Sixth Congressional District are presented in the third and fourth columns of Table One. The adopted district is predominantly Democratic in character, with 34.4% of the voters registering with the Republican Party, 44.8% registered with the Democratic Party, and 20.8% registered with neither party.

Is Voting in Maryland's Sixth Congressional District Partisan Polarized?

The typical approach to addressing the question of racially polarized voting in the voting rights context is to conduct what is known as a racial bloc voting analysis, which essentially correlates populations and election outcomes within precincts. In the context of partisan polarized voting, I might correlate party registration statistics with election outcomes. This option is challenged due to lack of data availability. I only have precinct-level party registration statistics for the 2010 general election voters, which Maryland provided through discovery; I do not have statistics for subsequent elections for which I might wish to correlate party registration and election results.

Fortunately, there is another approach that can be used to analyze patterns of politically polarized voting: survey data. In voting rights cases, survey data is typically unavailable for the various elections of interest. Here, a large-sample academic election survey, called the Cooperative Congressional Election Study (CCES), sheds light on the partisan polarized voting within the Sixth Congressional District.[6]

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[6] The Cooperative Congressional Election Study data and codebooks are available at: http://projects.iq.harvard.edu/cces/data.

Versions of the CCES are available for the 2012 and 2014 general elections. I analyze questions asking respondents' pre-election candidate preferences for President, U.S. Senate, Governor, and U.S. House. The reported percentages do not sum to 100% since I do not report percentages for respondents who are uncertain, have no candidate preference, or prefer an unlisted candidate.

This is a challenging approach to determine partisan polarized voting since the estimates are pre-election candidate preferences and not post-election vote choice. Those who are ambivalent, expressing no candidate preference, are more likely to abstain from the election. The percentages of registered Democrats and Republicans voting for their candidate is likely higher. Furthermore, these are relatively small-sample survey estimates with a relatively high margin of errors, on the order of +/- 6 percentage points or lower.

I cross-tabulate candidate choice by self-reported party registration to present a measure consistent with the party registration statistics presented in Table One. I present two endemic U.S House elections in 2012 and 2014 and three exogenous statewide elections: 2012 President, 2012 U.S. Senate, and 2014 Governor.

		Registered Democrats	No Party Registration	Registered Republicans
Endemic Elections				
2012 U.S. House				
Survey	*John Delaney (D)*	69%	28%	23%
N = 133	*Roscoe Bartlett (R)*	8%	15%	64%
2014 U.S. House				
Survey	*John Delaney (D)*	66%	28%	2%
N = 124	*Dan Bongino (R)*	6%	54%	82%
Exogenous Elections				
2012 President				
Survey	*Barack Obama (D)*	91%	68%	14%
N = 108	*Mitt Romney (R)*	8%	14%	70%
2012 U.S. Senate				
Survey	*Ben Cardin (D)*	71%	38%	15%
N = 132	*Dan Bongino (R)*	5%	10%	61%
	S. Rob Sobhani (I)	3%	8%	12%
2014 Governor				
Survey	*Anthony Brown (D)*	64%	24%	2%
N = 124	*Larry Hogan (R)*	8%	58%	84%

Table Two. Election Results and Candidate Preferences Among Registered Voters in the Sixth Congressional District

The CCES estimates presented in Table Two reveal that in all five elections for which data are available, Democrats and Republicans have distinct candidate preferences in that at least a majority of registered Democrats prefer the Democratic candidate and at least a majority of

registered Republicans prefer the Republican candidate. These survey estimates are different from 50% at conventional levels of statistical significance.[9] I am thus highly confident within prevailing professional standards that registered Democrats in the Sixth Congressional District prefer Democratic candidates and registered Republicans prefer Republican candidates. This common sense conclusion should be of no surprise. Since a seminal 1960 book called *The American Voter* scholars have repeatedly found party identification is a strong predictor of vote choice.[10]

Can Republicans in the Sixth Congressional District Elect a Candidate of Their Choice?

To address whether registered Republicans in the adopted Sixth Congressional District are able to elect candidates of their choice, I examine ten elections within the district. Three are the endemic U.S. House elections in 2012, 2014 and 2016. Seven are exogenous statewide elections, for which I report the portion of the statewide vote cast within the adopted Sixth Congressional District.[11]

The election results within the adopted Sixth Congressional District are reported in Table Three.

In the three endogenous U.S. House election, registered Democrats' preferred candidate prevailed in all three elections.

In the seven exogenous statewide elections, registered Democrats' preferred candidate prevailed in six of seven elections.

The average margin of victory for the Democratic candidate over the Republican candidate in all ten elections was ten percentage points.

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[9] The worst-case election in terms of not finding a preference among registrants of a party is different than 50% is in the 2014 Governor election. Here, 64.1% of registered Democrats expressed a preference for the Democratic candidate, Anthony Brown. The margin of error for this estimate is +/- 6.4%, which means that the true population value could range from 57.7% to 70.5%. Thus, in all five instances, the registered Democrats and Republicans express a preference for their party's candidate that is different from 50% at conventional levels of statistical significance.

[10] See Campbell, Converse, Miller, and Stokes. 1960. *The American Voter*. New York: John Wiley & Sons, Inc. Evidence in this case supports the same conclusion. Eric Hawkins, a mapmaker at NCEC Services, testified that his consulting firm tracked the voting history of Maryland voters in order to draw the map that became the Congressional Plan. *See, e.g.*, Hawkins Dep. at 84:17-86:1 (noting that NCEC Services tracked two-way voting percentages); Hawkins Dep. Exs. 55-57, 59, 66, 68.

[11] I did some estimation to construct statewide election results within the adopted Sixth Congressional District. Maryland reports complete election results by county and election results for early voters only by precinct. Election results are thus available for Allegany, Garrett, and Washington counties, which are entirely contained within the Sixth Congressional District. I estimated precinct-level Election Day candidate tallies for the parts of the Sixth Congressional District contained in Frederick and Montgomery counties. I apportioned the county total Election Day vote for the candidates by the proportion of the early vote a candidate received within a given precinct, relative to the county. I added the known early vote total and estimated Election Day vote total for each precinct, and sum the votes across Frederick and Montgomery counties' precincts assigned to the Sixth Congressional District. I then summed the votes for all counties to produce district-wide totals for the Sixth Congressional District.

It is my opinion based on the preponderance of this evidence that registered Republicans are disfavored in electing a candidate of their choice.

	Election Result
Endemic Elections	
2012 U.S. House	
John Delaney (D)	59%
Roscoe Bartlett (R)	38%
2014 U.S. House	
John Delaney (D)	50%
Dan Bongino (R)	48%
2016 U.S. House	
John Delaney (D)	56%
Amy Hoeber (R)	40%
Exogenous Elections	
2012 President	
Barack Obama (D)	55%
Mitt Romney (R)	43%
2012 U.S. Senate	
Ben Cardin (D)	50%
Dan Bongino (R)	35%
S. Rob Sobhani (I)	14%
2014 Governor	
Anthony Brown (D)	42%
Larry Hogan (R)	56%
2014 Attorney General	
Brian Frosh (D)	49%
Jeffery Pritzker (R)	48%
2014 Comptroller	
Peter Franchot (D)	54%
William Campbell (R)	46%
2016 President	
Hillary Clinton (D)	58%
Donald Trump (R)	39%
2016 U.S. Senate	
Chris Van Hollen (D)	57%
Kathy Szeliga (R)	40%

Table Three. Election Results Within the Sixth Congressional District

Was Vote Dilution of Registered Republicans Intentional?

To assess if the vote dilution of registered Republicans was intentional, I examine how Maryland's General Assembly affected the Sixth Congressional District through redistricting. I note how the changes made to the benchmark district produced an adopted district of distinctly different geography with distinctly different political character. I assess the intentionality of these changes by showing how the district could have been drawn while better respecting the traditional redistricting principles of compactness and respect for county boundaries.

Changes to Maryland's Sixth Congressional District

The 2010 census revealed that Maryland had a total population of 5,773,552 people. State law requires the 2010 census to be adjusted for the location of prison populations for the purposes of redistricting, which yielded a statewide population of 5,772,231. The ideal equal population congressional district was the state's adjusted total population divided by eight, which yields 721,529 people (with one district needing one less person due to rounding).

Using the prison-adjusted numbers, the benchmark Sixth Congressional District had 731,718 people, which was 10,189 more than the ideal equal population congressional district. Since the Sixth Congressional District was located in a corner of the state and it needed to shed only 1.4% of its population to achieve population equality, it should have been reasonably immune to major boundary disruptions during redistricting.

This is not what happened. As is clear from Table One, the Sixth Congressional District had a major transformation from a predominantly Republican district to a predominantly Democratic district. Such a transformation is only possible through substantial shifts of people and geography.

The population changes from the benchmark to the adopted Sixth Congressional District that occurred during redistricting are presented in Table Four. The first column identifies the district in the benchmark plan, the second column identifies the district in the adopted plan, and the third column presents the prison-adjusted total population that was moved from the benchmark plan to the target adopted district. *Continuing portions* are those populations that were in the benchmark and adopted Sixth Congressional District. *Shed portions* are those populations that were removed from the benchmark Sixth Congressional District to a different adopted district. *Gained portions* are populations that were removed from different benchmark districts and added to the adopted Sixth Congressional District.

Only 371,350 people in the benchmark Sixth Congressional district (just 50.75% of the benchmark population) are also in the adopted district. The panhandle portion of the Sixth Congressional District—comprising Garrett, Allegany, and Washington counties, with a total adjusted population of 245,249 persons—is effectively locked into the district. While it is technically possible to split these three panhandle counties, doing so would raise glaring concerns that traditional redistricting principles were being subverted for some other goal. Thus,

within the constrained options available to Maryland, only 126,101 (371,350 minus 245,249) people of whom Maryland had a reasonable option of continuing in the district actually did so.

Continuing Portions					
Benchmark District	Adopted District	Total Reg.	Dem Reg.	Rep Reg.	Other Reg.
6	6	213,565	82,902	92,983	37,680
Shed Portions					
Benchmark District	Adopted District	Total Reg.	Dem Reg.	Rep Reg.	Other Reg.
6	1	68,764	21,980	36,153	10,631
6	2	3	1	1	0
6	7	17,203	6,557	7,908	2,738
6	8	145,984	48,221	70,921	26,842
6	All	231,953	76,759	114,983	40,212
Gained Portions					
Benchmark District	Adopted District	Total Reg.	Dem Reg.	Rep Reg.	Other Reg.
4	6	68,646	34,578	17,711	16,358
8	6	128,992	66,641	30,855	31,497
All	6	197,638	101,218	48,565	47,855

Table Four. Party Registration Changes to the Maryland Sixth Congressional District

Maryland's General Assembly respected few people who it had a discretion of continuing in the district: 360,368 people were moved out of t he district and 350,179 people were moved in. All of this activity occurred for a district that needed to only shed 10,189 people.

The political effect of these moves is clear. Maryland's Sixth Congressional District experienced substantial changes in its partisan character during the last redistricting. As reported in Table One, the benchmark district changed a district with a margin of 10.8 percentage points favoring the Republican Party to an adopted district with a 10.4 percentage favoring the Democratic Party. A change of the partisan character of this magnitude would not have been possible by merely removing 10,189 people from the Sixth Congressional District. Massive population shifts as documented in Table Four were needed. The changes from the benchmark to the adopted Sixth Congressional District—presented in the fifth and sixth columns of Table One—further illustrate that the population shifts had a profound effect on the partisan character of the district. A net of 66,417 registered Republicans were removed from the district; 24,460 registered Democrats were added; and 7,643 persons with no party registration were added. That more Republicans were removed than Democrats added is also indicative of the partisan effect, in that Democratic communities, compared to Republican communities, tend to have greater number of ineligible populations, such as under age youth and noncitizens.

Respect for Traditional Redistricting Principles

I rule out that respecting traditional redistricting principles, such as minimizing splits of local political boundaries and improving compactness, were the guiding principles behind the crafting of the adopted Sixth Congressional District. It is my opinion that but for the consideration of partisan goals—aided by map drawers, use of party registration and voting history data – the lines of the Sixth District would not have been drawn as they were, and Republican votes would not have been so diluted.

It is true that the adopted Sixth Congressional District has fewer county splits than the benchmark district. The benchmark Sixth Congressional District contributed to (three) splits of Carroll, Harford, and Montgomery counties, while the adopted Sixth Congressional District contributes to (two) splits of Frederick and Montgomery counties. However, if minimizing county splits was a priority, there is a simple solution to reduce the split of Frederick County, and to reduce the overall number of county splits in the entire plan.

The adopted Eighth Congressional District, presented in Figure Five, is the only congressional district that borders the Sixth Congressional District. These two districts split Frederick County and the Eighth Congressional District splits Carroll County with the First Congressional District. Maryland could have assigned all of Frederick County to the Sixth Congressional District, and the portion of Carroll County split by the Eighth Congressional District to the Sixth. The balance of the population lost from the Eighth Congressional District to the Sixth could be given back in from the Sixth's population located in Montgomery County. This simple solution would have reduced the number of counties split in the overall redistricting plan by one. I can thus rule out minimizing county splits as a rationale for the creation of the adopted Sixth Congressional District.

Why this solution was not pursued is clear from the partisan character of the Eighth Congressional District's registered voters in the Frederick and Carroll county areas assigned to it. The Frederick and Carroll county VTDs assigned to the adopted Eighth Congressional District are visible in Figure Four. These are predominantly rural, heavily Republican areas. A zoomed-in map of the Frederick area—Figure Six—shows how Frederick was retained within the adopted Sixth Congressional District. The figure illustrates two important points.

First, the panhandle portion of the adopted Sixth Congressional District is joined to the remainder by way of a neck hugging the Virginia border that is composed of a string of single VTDs joined together. When this string reaches the VTDs to the south of Frederick, another narrow neck extends upward to encompass Frederick. It is these narrow necks that join Frederick in a non-compact and unnecessary manner. In my map drawing experience, it would have been easy to add additional VTDs to the Sixth Congressional District to round off its shape in a more compact manner and trade back population with the Eighth Congressional District elsewhere. I can thus eliminate creating compact districts as a rationale for the drawing of the Sixth Congressional District.

Second, the effect of including Frederick is to increase the Democratic registration in the Sixth Congressional District, as the city and VTDs to the immediate south are generally Democratic

leaning. Three VTDs are split around Frederick in such a manner that neighborhoods further away from Frederick—and presumably more Republican in character—are removed from the adopted Sixth Congressional District. Adding the portions of these split VTDs, and indeed more VTDs to improve the compactness of the Sixth Congressional District would have meant adding more Republicans to the district and, given where population could be swapped with the Eighth Congressional District in Montgomery County, Democrats removed from the district.

After looping in Frederick, the adopted Sixth Congressional District crosses the Montgomery County line and continues into heavily Democratic areas in the suburbs of the District of Columbia. The environs of Gaithersburg and Rockville are presented in Figures Seven. The city of Gaithersburg is included in its entirety in the adopted Sixth Congressional District and the district hugs two arms around Rockville. Trading the portions of Frederick and Carroll counties located in the adopted Eighth Congressional District to the adopted Sixth Congressional District would require giving some of these Democratic areas located in the Sixth to the Eighth District. This could be accomplished in a more compact manner than currently exists, thus again providing evidence that Maryland was not seeking compactness when drawing the Sixth Congressional District.

While the focus of Plaintiffs' claims are the Sixth Congressional District, it is important to reflect again on how the geography and population of the Sixth Congressional District affected its only neighbor, the Eighth Congressional District. Table Four presents the party registration shed from the benchmark Sixth Congressional District to other adopted districts, and party registration gained to the adopted Sixth Congressional District from other benchmark districts. The Sixth District gained a net of 18,420 registered Democrats (66,642 minus 48,221) from the Eighth Congressional District and gave a net of 40,067 registered Republicans (70,921 minus 30,855) to the Eighth District.

The party registration trades between the Sixth and Eighth Congressional Districts are indicative of a classic gerrymandering strategy known as *cracking*. In cracking, a district that leans towards one political party is cut into two or more pieces so that the influence of the party that was the former majority is diminished. As mentioned previously, the Eighth Congressional District was given much of the former rural and Republican portions of the benchmark Sixth District in Frederick and Carroll counties. As evident in Figure Four, these areas bordering Pennsylvania were combined with heavily Democratic areas in the areas immediately bordering the District of Columbia. As evident in Figure Five, at a point along Olney Laytonsville Road, the Eighth Congressional District narrows to a neck less than a half a mile wide, traversing the Oaks Landfill, to join the two geographically and politically disparate portions of the district. The result of these trades, and others, with the Eighth District reduced the Democratic registration advantage from a 38.8 point Democratic margin (58.4% to 19.6%), to a 23.2 point Democratic margin (51.4% to 28.3%).

An Alternative Approach to the Sixth and Eighth Congressional Districts

Since the adopted Sixth Congressional District is contiguous only with the Eighth Congressional District, a simple alternative exists that avoids diluting the votes of registered Republicans, better

adheres to redistricting principles, and does not affect any choices made when the Maryland General Assembly constructed the other districts.

A Sixth Congressional District can be constructed that is more compact and results in fewer county splits in the entire plan by assigning to the Sixth District portions of Frederick County and the split portion of Carroll County, which are currently assigned to the Eighth Congressional District. Population traded to the Sixth can be easily balanced back in Montgomery County, where the Sixth and Eighth Congressional Districts also share a common border. These trades could reduce the number of split VTDs between the Sixth and Eight districts in Frederick and Montgomery counties, in a compact manner. As a by-product, the shape of the Eighth Congressional District can also be greatly improved.

Figure Eight presents an alternative configuration of the Sixth and Eighth Congressional Districts that affects only the boundaries of these two districts. A simple comparison to a map of the adopted district in Figure 3 shows the alternative Sixth District is visually more compact than the adopted district. Most notably, whereas the adopted district has contorted boundaries in Frederick County, this district assigns all of Frederick to the district. Furthermore, this configuration has a beneficial effect on the Eighth Congressional District. In comparison to Figure Five, the Eighth Congressional District is now entirely contained within Montgomery County and no longer has a narrow neck connecting portions of Montgomery County with portions of Carrol and Frederick counties.

Figure Nine illustrates how the alternative Sixth Congressional District no longer subsumes predominantly Republican rural portions of Western Maryland into the predominantly Democratic urban areas of Montgomery County.

In Table Five, I present 2010 party registration statistics for this alternative Sixth Congressional District, using the same underlying party registration data in Table One. The statistics for this alternative district confirm that this district is now slightly Republican leaning; 42.6% of registered voters registering with the Republican Party and 38.4% registering with the Democratic Party, for a difference of 4.2 percentage points. In comparison, the benchmark district had a 10.8 percentage point Republican Party registration advantage and the adopted district has a 10.6 percentage point Democratic Party registration advantage.

	Alternative	
	Number	Percent
Democrats	162,616	38.4%
Republicans	180,226	42.6%
No Party	80,405	19.0%
Total	423,246	100.0%

Table Five. Party Registration in Maryland Alternative Sixth Congressional District

I examined elections within the alternative Sixth Congressional District to determine if Republicans would more often be able to elect a candidate of their choice. I did not examine U.S. House races since the district now extends across two U.S. House districts that did not have similar electoral circumstances.

	Election Results
Exogenous Elections	
2012 President	
Barack Obama (D)	44%
Mitt Romney (R)	53%
2012 U.S. Senate	
Ben Cardin (D)	38%
Dan Bongino (R)	43%
S. Rob Sobhani (I)	16%
2014 Governor	
Anthony Brown (D)	30%
Larry Hogan (R)	68%
2014 Attorney General	
Brian Frosh (D)	38%
Jeffery Pritzker (R)	58%
2014 Comptroller	
Peter Franchot (D)	46%
William Campbell (R)	54%
2016 President	
Hillary Clinton (D)	42%
Donald Trump (R)	51%
2016 U.S. Senate	
Chris Van Hollen (D)	44%
Kathy Szeliga (R)	51%

Table Six. Election Results Within the Alternative Sixth Congressional District

Election results for the seven statewide offices in 2012, 2014, and 2016 for the portions contained within the alternative Sixth Congressional District are presented in Table Six. The Table shows that in all seven exogenous statewide elections the Republican candidate of choice received more votes than the Democratic candidate. The average margin of victory for the Republican candidate is 13%.

Conclusion

Given the current high levels of political polarization in the United States, it should come as no surprise that party registrants within Maryland's Sixth Congressional District disagree over their candidates of choice, with registered Democrats preferring Democratic candidates and registered Republicans preferring Republican candidates.

Maryland's adopted Sixth Congressional District's geography and political composition are a clear result of a classic partisan gerrymandering strategy known as cracking. A district that was predominantly rural and Republican in character was transformed into a district where the political strength of Democratic suburbs of the Washington, D.C. suburbs outweighs the Republican rural areas, predominantly in the panhandle.

As a consequence of the configuration of the adopted Sixth Congressional District, registered Republicans do not have an opportunity to elect a candidate of their choice. Their preferred candidate lost all three endemic U.S. House elections within the district and received less than the Democratic candidate in six of seven exogenous statewide elections. It is extremely unlikely that this would have happened if Republicans' voter histories and party affiliation had not been taken into account while drawing the adopted district's lines.

The gerrymandering strategy that was executed to produce this political outcome had a detrimental effect on traditional redistricting principles. The Republican rural communities along the Pennsylvania border were fragmented in a classic cracking gerrymandering strategy, by transferring registered Republicans in Carroll and Franklin counties to the Eighth Congressional District in exchange for Democratic urban areas in Montgomery County formerly in the Eighth Congressional District.

An alternative map approach exists that better respects traditional redistricting principles by reducing the overall number of counties split by districts, doing so in a more compact manner for both the Sixth and Eighth congressional districts. It is my opinion this approach would have been easily discoverable to the Maryland General Assembly, if they wished to pursue it. I envisioned this configuration following a brief inspection of the district. Notably, this alternative Sixth Congressional District would affect the political character of the district, making it more Republican. Thus, the violation of traditional redistricting principles serves as an indicator that politics, not good government goals, was a major motivating factor behind the creation of the adopted Sixth Congressional District.

Date: April 7, 2017

Prof. Michael P. McDonald, PhD

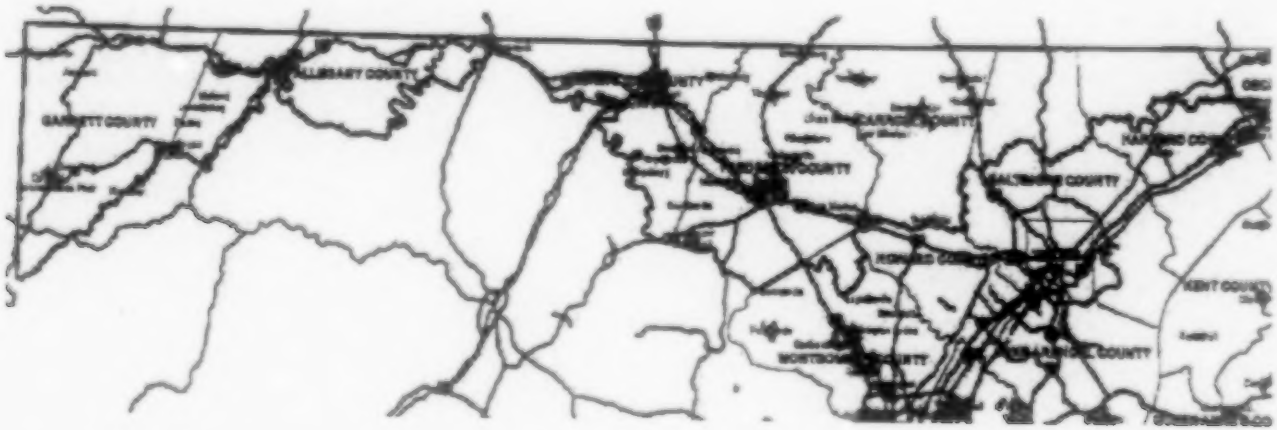


Figure One. Benchmark Maryland Sixth Congressional District

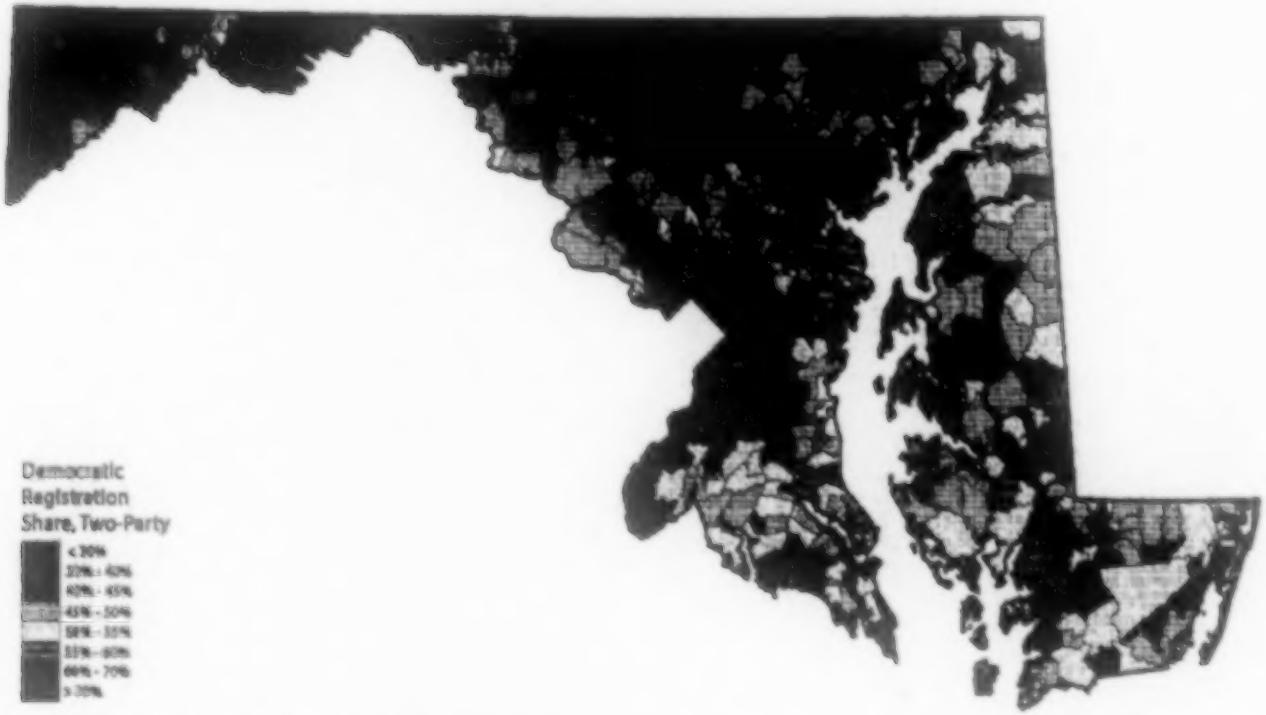


Figure Two. Party Registration in Maryland's benchmark Congressional Districts

Note: Congressional districts are represented by thick black lines and VTDs boundaries are represented by light grey lines. VTDs are shaded by their partisan registration, with Republican areas shaded in red and Democratic areas shaded in blue.

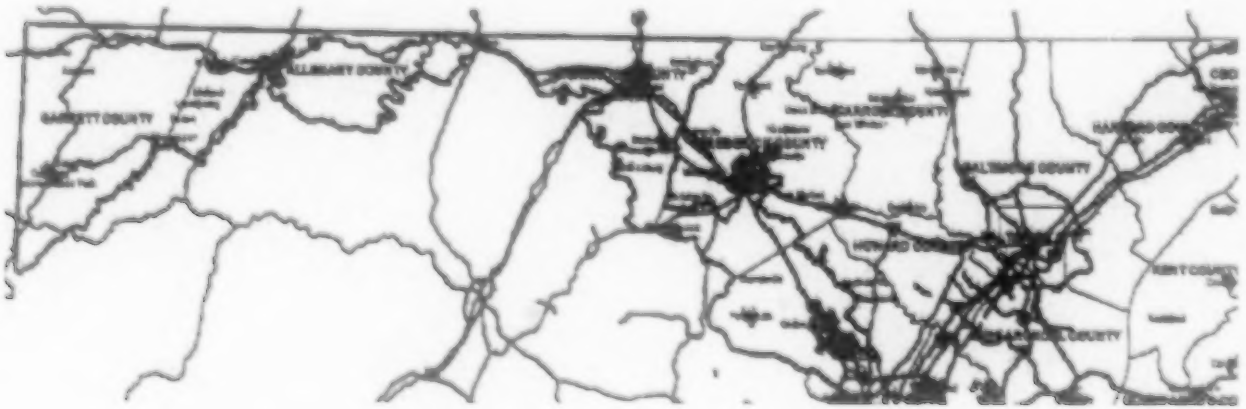


Figure Three. Adopted Sixth Congressional District

Figure Four. Party Registration in Maryland's benchmark Congressional Districts

Note: Congressional districts are represented by thick black lines and VTDs boundaries are represented by light grey lines. VTDs are shaded by their partisan registration, with Republican areas shaded in red and Democratic areas shaded in blue.

Figure Five. Adopted Eighth Congressional District

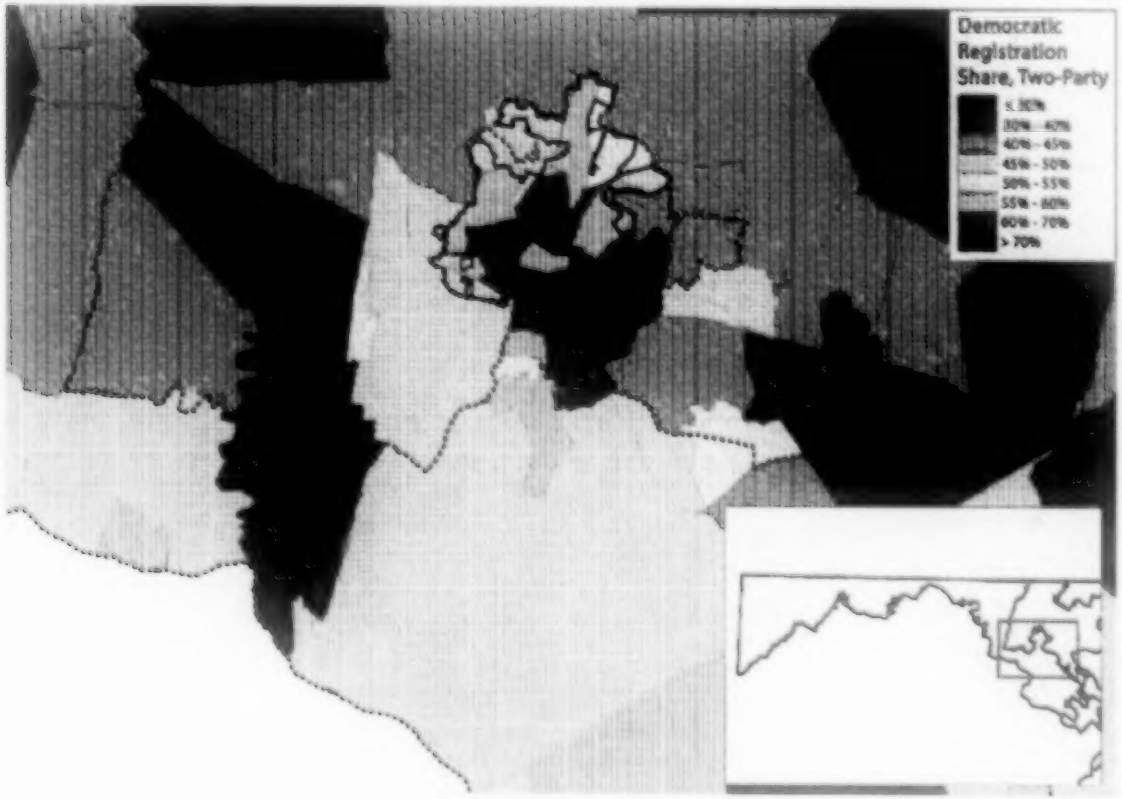


Figure Six. Zoom of City of Frederick with Current Congressional Sixth District

Note: Congressional district boundaries are represented by dotted black lines, the city of Frederick is represented by a dark green line, and VTDs boundaries are represented by light grey lines. VTDs are shaded by their partisan registration, with Republican areas shaded in red (most Republican) to yellow and Democratic areas shaded in dark blue (most Democratic) to light blue.

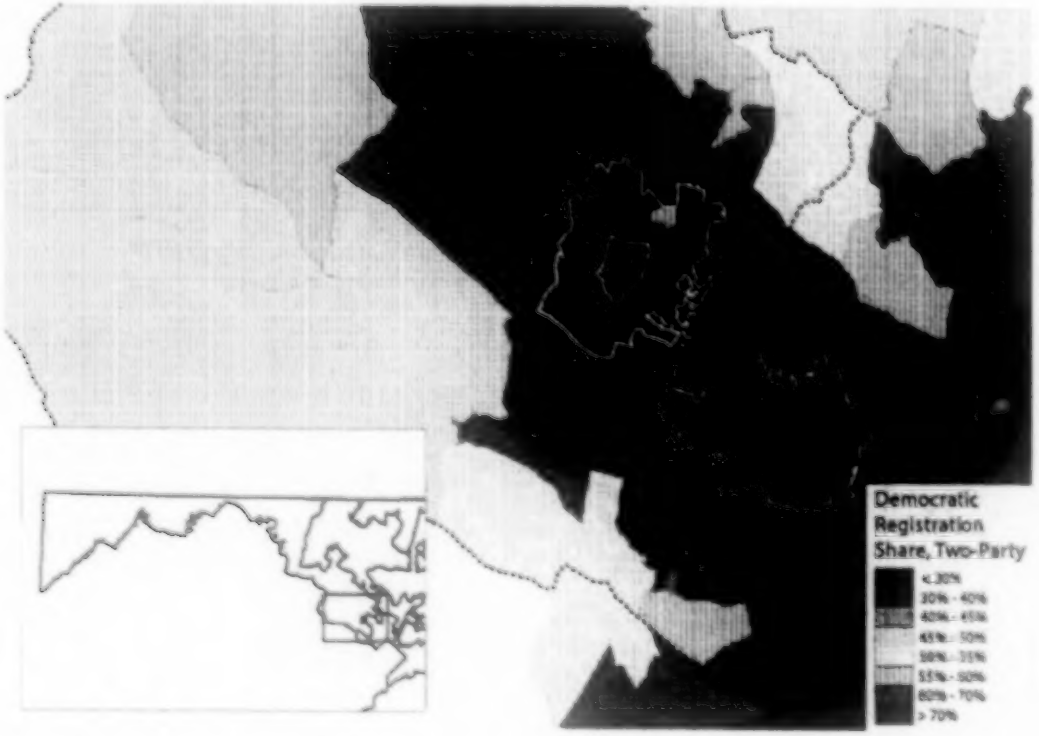


Figure Seven. Zoom of Gaithersburg and Rockville with Current Sixth Congressional District

Note: Congressional district boundaries are represented by dotted black lines, the cities of Gaithersburg and Rockville are represented by light yellow and green lines (respectively), and VTDs boundaries are represented by light grey lines. VTDs are shaded by their partisan registration, with Republican areas shaded in red (most Republican) to yellow and Democratic areas shaded in dark blue (most Democratic) to light blue.

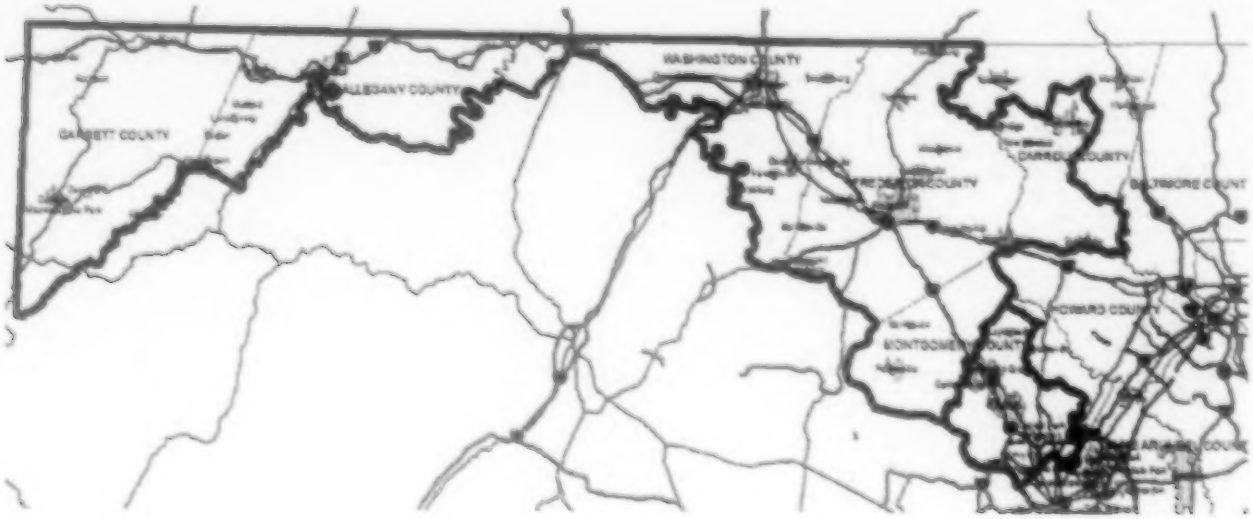


Figure Eight. Alternative Sixth and Eighth Congressional Districts

Figure Nine. Alternative Sixth Congressional District

Note: Congressional districts are represented by thick black lines and VTDs boundaries are represented by light grey lines. VTDs are shaded by their partisan registration, with Republican areas shaded in red and Democratic areas shaded in blue.

Appendix 1: Methodology

Voting-tabulation districts is a term used by the Census Bureau to describe precincts, wards, and election districts, among the many names used by states and localities. States transmit these boundaries to the Census Bureau circa a year ending in '7' for inclusion in the next census.

I obtained from counsel Maptitude (a commercial redistricting software) data files that contained 2010 voter registration information for Maryland's precincts. These precincts were assigned to VTDs. In the course of merging these data with the Census Bureau's PL-94-171 redistricting data file for Maryland, I identified eleven Montgomery County VTDs that were not assigned a precinct from the Maptitude data files. I obtained from 2007 a map of the Maryland's 2007 precincts via an internet archive. From this map I deduced where two precincts were consolidated into one between 2007—when precinct boundaries were transmitted to the Census Bureau—and 2010. I assigned the geography to the parent VTD from which it was consolidated. These orphaned precincts were combined as follows:

02-009 and 02-002 into 02-002
02-010 and 02-003 into 02-003
02-011 and 02-006 into 02-006
04-026 and 04-016 into 04-016
05-022 and 05-005 into 05-005
05-024 and 05-012 into 05-012
06-014 and 06-005 into 06-005
09-032 and 09-020 into 09-020
09-038 and 09-026 into 09-026
13-041 and 13-002 into 13-002
13-062 and 13-049 into 13-049

In some cases two or more districts share or split a precinct. I use a method known as "dasymetric mapping" to assign party registration numbers to census blocks, and then aggregate party registration data from census blocks to compute party registration statistics presented in this report.[12]

[12] See: Brian Amos, Michael P. McDonald, and Russell Watkins. Forthcoming. "When Boundaries Collide: Constructing a Database of Election and Census Data." *Public Opinion Quarterly*.

From: Jeremy Baker <bakerjeremypaul@gmail.com>
Sent: Thursday, December 29, 2016 2:37 PM
To: Brantley, Sandra
Subject: Fwd: Refutation
Attachments: Edwards Data.xlsx

Sent from my iPhone

Begin forwarded message:

From: "Yaakov \"Jake\" Weissmann" <[redacted]>
Date: October 17, 2011 at 5:41:45 PM EDT
To: [redacted], "Delaney, Patrick" <[redacted]>, Jeremy Baker <[redacted]>, "John P. McDonough" <[redacted]>
Subject: Refutation

Hey All,

Secretary McDonough and I looked over the map and Press release. Thoughts:

First off, it should be noted that this plan significantly lowers the 6th, 8th and 3rd's DPI to help the 4th and 5th.

The 6th is now at 51.8% (was at 52.7%)
The 8th is now at 59.8% (was at 60.4%)
The 3rd is now at 55.0% (was at 58.4%)

It should be noted that in the last wave, 10 incumbent Democrats lost seats that were at 54.9% or higher, placing the 3rd in danger and making the 6th much harder to pick up.

Refutations:

Edwards 1: Allows for the possibility of minority representation in one of the congressional districts in Montgomery County

Counter: We argue that the electoral history in Montgomery County clearly suggests that both districts in the Governor's plan (6&8) can be won by a minority candidate.

Edwards 2: Unifies the Latino/Hispanic populations on the Montgomery-Prince George's County border in one congressional district;

Counter: (It should be noted that her argument is no longer percentages, it is now Communities). To combine these communities (Langley park), she also takes silver spring which contain precincts with little Hispanic population relative to other nearby precincts (see image 1 attached). This isn't about reuniting neighborhoods or strengthening communities, it's about preferred territory for a Congresswoman.

Edwards 3: Enables a significant Asian population in North Potomac to remain as a cohesive unit in Congressional District 8;

Counter: The Asian territory in North Potomac causes the bulk of the 1% DPI drop in the 8th and it dilutes the percentage of the Asian population in the 6th (from 10% to 9.2%). There are again, precincts she did not take (see image 2).

Edwards 4 & 5: Enables African American communities in Montgomery to remain in Congressional District 4 under the Voting Rights Act; 5) Strengthens the Black voting age population in Congressional Districts 4 and 5 and provides more cohesiveness in Prince George's County;

Counter: She actually bypasses heavier African-American precincts in Montgomery County to choose Silver Spring precincts she wanted even though they are less African-American (see Image 3). She even bypassed precincts she previously represented. Why do that if this is all about minority representation?

Other general issues:

- Montgomery County gets 4 CDs
- Howard County gets 4 CDs
- Edwards is not even standing by this map. At the hearing she freely suggested changing it again to eject the 3rd from Montgomery County which will disrupt the Baltimore area.

Overall Message:

A vote for this amendment would put 4 in MoCo, 4 in Howard, just increases her margin in the General Election, slightly increases AA in 5th which is increasing due to demographic growth. Causes CD8 disruption, endagers effort to win the 6th and puts the 3rd in jeopardy. Dilutes the power of Asians and Hispanics in other parts of MoCo. Pure political selfishness and actually undermines the possibility of minority candidates winning the 6th or 8th CDs in the future.

Thanks!
Jake

Attached is:

- Images discussed
- An image of the areas of the state impacted
- A close up on Montgomery County
- A new spreadsheet with DPI with this map

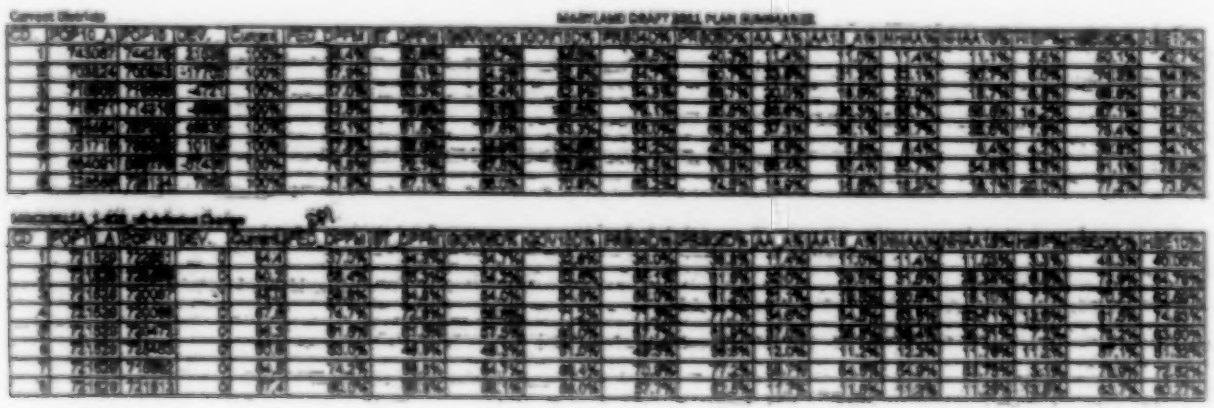


EXHIBIT
BUSCH
120
4/19/17 OJ

Gmail Robert Garagiola <

CD6

Elizabeth Paul Tue, Oct 4, 2011 at 8:13 PM
Reply-To: [redacted]
To: robgaragiola

Great to hear - I'm keeping my fingers crossed until 10/17! Thanks for keeping me posted - Elizabeth

----Original Message----
From: robgaragiola
Sent: Tuesday, October 04, 2011 8:20 PM
To: Elizabeth Paul
Subject: CD6

Elizabeth,

The map will be public today. There still may be minor changes before the General Assembly convenes in less than two weeks. The 8th District would comprise about 40% of Montgomery County, including northern and western parts. It would include southern Frederick and the City of Frederick. The rest of Frederick would be in Van Hollen's district. All of Washington, Allegheny, and Garrett would remain in the 6th. The Dem performance would be 53%. All good news.

Rob
Sent from my Verizon Wireless BlackBerry

EXHIBIT
15
[illegible]

Subject: Re: (No subject)
From: MG2590@aol.com
Date: 9/1/2011 3:06 PM
To: brianromick@gmail.com

No problem

In a message dated 9/1/2011 2:43:41 P.M. Eastern Daylight Time, brianromick@gmail.com writes:

> if we can get you parking, you mind driving separately then? we need to do 3 meetings, if Miller and Busch are in Annapolis.
>
> On Thu, Sep 1, 2011 at 2:31 PM, <mg2590@aol.com> wrote:
> Brian:
>
> OK. Have to come back to NCEC after meeting with the Governor, as I have much to do on the first day with everyone returning.
> c
>
> -----Original Message-----
> From: Brian Romick <brianromick@gmail.com>
> To: MG2590@aol.com <mg2590@aol.com>
> Sent: Thu, Sep 1, 2011 2:09 pm
>
> 10am on Tuesday

EXHIBIT Miller 135 4/24/17

HOV000035

Confidential

MARYLAND DRAFT MAP PLAN SUMMARIES

Current Districts

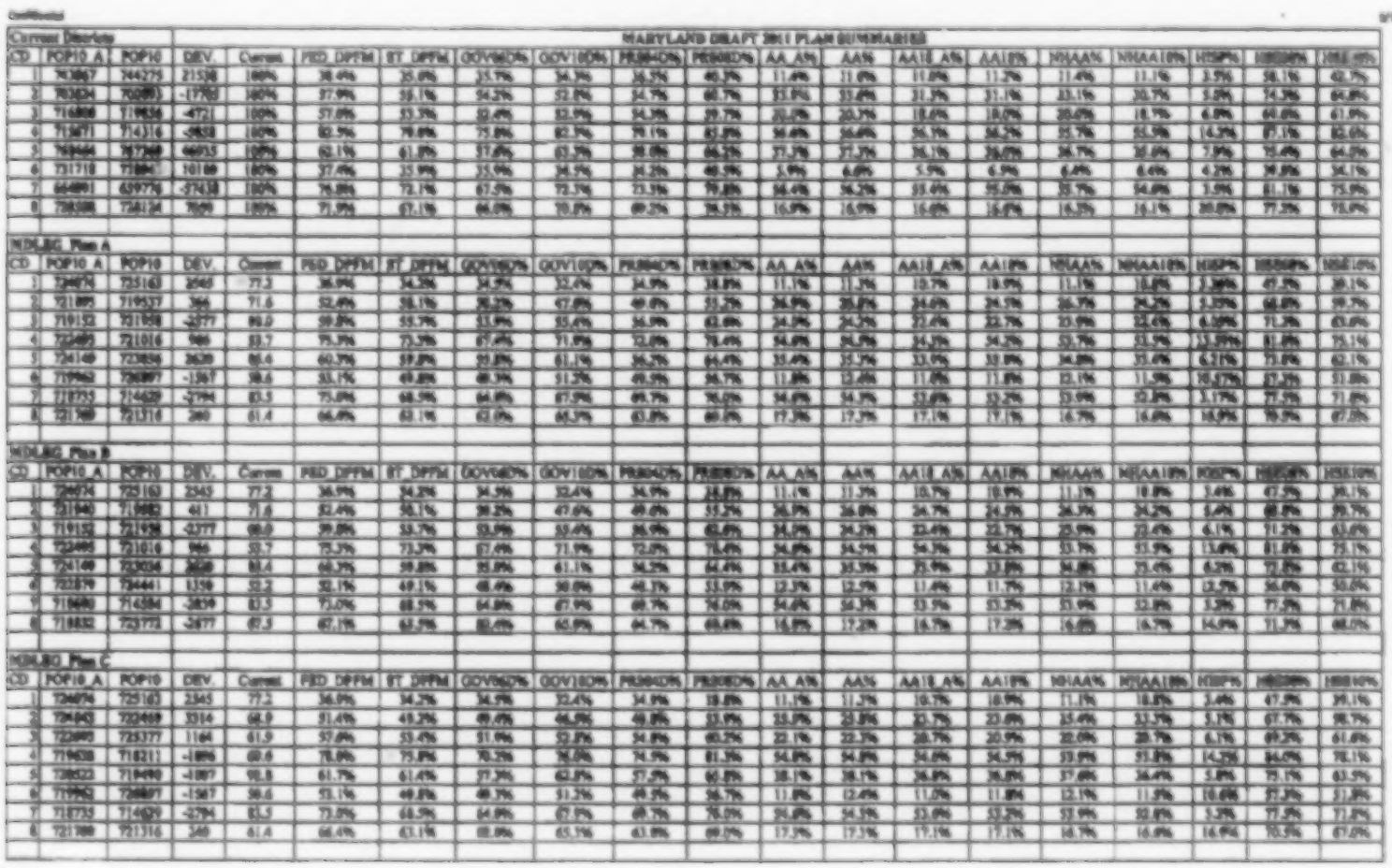
CD	POP10_A	POP10	DEV.	Current	BVAP	DPSM	ST. DPSM	GOVWORN	GOV16DEM	PRESWON	PRES16DEM	AA_AVG	AA16_AVG	AA18	AA18_A/B	AA18_PW	NHAA18	NHAA18_A/B	NHAA18_PW	HISP18	HISP18_A/B	HISP18_PW
1	743957	744773	21,506	100%	33.4%	35.6%	35.7%	35.7%	67.7%	34.8%	67.4%	11.0%	11.0%	11.0%	11.0%	11.0%	11.0%	11.0%	11.0%	3.5%	3.5%	3.5%
2	709764	709960	-13,306	100%	37.9%	33.1%	33.1%	34.3%	67.7%	34.8%	67.4%	11.0%	11.0%	11.0%	11.0%	11.0%	11.0%	11.0%	11.0%	3.5%	3.5%	3.5%
3	716608	716604	-6721	100%	37.0%	33.0%	33.0%	33.7%	68.3%	34.8%	68.0%	11.0%	11.0%	11.0%	11.0%	11.0%	11.0%	11.0%	11.0%	3.5%	3.5%	3.5%
4	715671	714314	-8018	100%	63.3%	78.8%	78.8%	31.3%	34.3%	30.7%	34.0%	30.7%	30.7%	30.7%	30.7%	30.7%	30.7%	30.7%	30.7%	6.7%	6.7%	6.7%
5	746464	747748	44892	100%	62.1%	61.8%	61.8%	31.3%	34.3%	30.7%	34.0%	30.7%	30.7%	30.7%	30.7%	30.7%	30.7%	30.7%	30.7%	6.7%	6.7%	6.7%
6	701716	718843	1818	100%	37.9%	35.3%	35.3%	31.3%	34.3%	30.7%	34.0%	30.7%	30.7%	30.7%	30.7%	30.7%	30.7%	30.7%	30.7%	6.7%	6.7%	6.7%
7	664304	687770	-27618	100%	36.9%	72.1%	67.3%	31.3%	34.3%	30.7%	34.0%	30.7%	30.7%	30.7%	30.7%	30.7%	30.7%	30.7%	30.7%	6.7%	6.7%	6.7%
8	726498	726124	20.0	100%	71.3%	67.3%	67.3%	31.3%	34.3%	30.7%	34.0%	30.7%	30.7%	30.7%	30.7%	30.7%	30.7%	30.7%	30.7%	6.7%	6.7%	6.7%

Black Caucus A

CD	POP10_A	POP10	DEV.	Current	BVAP	DPSM	ST. DPSM	GOVWORN	GOV16DEM	PRESWON	PRES16DEM	AA_AVG	AA16_AVG	AA18	AA18_A/B	AA18_PW	NHAA18	NHAA18_A/B	NHAA18_PW	HISP18	HISP18_A/B	HISP18_PW
1	721,539	722,712	0	62.3%	36.6%	35.5%	35.5%	35.2%	61.2%	36.1%	60.7%	11.3%	11.3%	11.3%	11.3%	11.3%	11.3%	11.3%	11.3%	3.5%	3.5%	3.5%
2	721,539	721,670	0	73.1%	46.3%	46.3%	46.3%	41.0%	57.0%	41.1%	56.7%	21.3%	21.3%	21.3%	21.3%	21.3%	21.3%	21.3%	21.3%	3.5%	3.5%	3.5%
3	721,539	725,924	0	63.0%	36.3%	35.4%	35.4%	35.4%	61.0%	35.8%	60.5%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	3.5%	3.5%	3.5%
4	721,539	726,061	0	63.0%	36.3%	35.4%	35.4%	35.4%	61.0%	35.8%	60.5%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	3.5%	3.5%	3.5%
5	721,539	726,670	-1	63.0%	36.3%	35.4%	35.4%	35.4%	61.0%	35.8%	60.5%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	3.5%	3.5%	3.5%
6	721,539	726,811	0	63.0%	36.3%	35.4%	35.4%	35.4%	61.0%	35.8%	60.5%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	3.5%	3.5%	3.5%
7	721,539	721,952	0	63.0%	36.3%	35.4%	35.4%	35.4%	61.0%	35.8%	60.5%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	3.5%	3.5%	3.5%
8	721,539	721,147	0	63.0%	36.3%	35.4%	35.4%	35.4%	61.0%	35.8%	60.5%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	3.5%	3.5%	3.5%

Black Caucus B

CD	POP10_A	POP10	DEV.	Current	BVAP	DPSM	ST. DPSM	GOVWORN	GOV16DEM	PRESWON	PRES16DEM	AA_AVG	AA16_AVG	AA18	AA18_A/B	AA18_PW	NHAA18	NHAA18_A/B	NHAA18_PW	HISP18	HISP18_A/B	HISP18_PW
1	721,539	722,712	0	62.3%	36.6%	35.5%	35.5%	35.2%	61.2%	36.1%	60.7%	11.3%	11.3%	11.3%	11.3%	11.3%	11.3%	11.3%	11.3%	3.5%	3.5%	3.5%
2	721,539	719,963	0	73.0%	46.3%	46.3%	46.3%	41.0%	57.0%	41.1%	56.7%	21.3%	21.3%	21.3%	21.3%	21.3%	21.3%	21.3%	21.3%	3.5%	3.5%	3.5%
3	721,539	723,184	0	63.1%	36.3%	35.4%	35.4%	35.4%	61.0%	35.8%	60.5%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	3.5%	3.5%	3.5%
4	721,539	726,060	0	63.0%	36.3%	35.4%	35.4%	35.4%	61.0%	35.8%	60.5%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	3.5%	3.5%	3.5%
5	721,539	726,670	-1	63.0%	36.3%	35.4%	35.4%	35.4%	61.0%	35.8%	60.5%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	3.5%	3.5%	3.5%
6	721,539	726,811	-1	63.0%	36.3%	35.4%	35.4%	35.4%	61.0%	35.8%	60.5%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	3.5%	3.5%	3.5%
7	721,539	721,952	0	63.0%	36.3%	35.4%	35.4%	35.4%	61.0%	35.8%	60.5%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	3.5%	3.5%	3.5%
8	721,539	721,147	0	63.0%	36.3%	35.4%	35.4%	35.4%	61.0%	35.8%	60.5%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	11.1%	3.5%	3.5%	3.5%



Current Districts			MARYLAND DRAFT 2011 PLAN SUMMARIES																
CD	POP10_A	POP10	DEV.	Current	FED_DIFFM	ST_DIFFM	GOV16DIFF	GOV10DIFF	PRES40%	PRES60%	AA_A%	AA%	AA18_A%	AA18%	NHAA%	NHAA18%	HISP%	HISP18%	HISP 10%
1	703867	744279	21538	100%	38.4%	35.6%	35.7%	34.3%	36.5%	40.3%	11.4%	11.6%	11.8%	11.2%	11.4%	11.1%	3.5%	58.1%	42.7%
2	703824	703883	-17782	100%	57.9%	59.1%	54.2%	52.8%	54.7%	60.7%	53.8%	53.4%	51.3%	51.1%	53.1%	50.7%	5.9%	34.3%	64.8%
3	716858	719836	-4721	100%	57.0%	53.3%	52.4%	52.5%	54.3%	59.7%	20.0%	20.3%	18.6%	18.0%	20.6%	18.7%	6.9%	64.6%	61.9%
4	713671	714316	-5458	100%	82.5%	79.6%	75.8%	82.3%	79.1%	83.8%	36.6%	36.6%	36.3%	36.3%	35.7%	35.9%	14.3%	37.1%	82.6%
5	749644	747268	66935	100%	62.1%	61.8%	57.6%	63.3%	58.0%	66.3%	37.3%	37.3%	36.1%	36.0%	36.7%	36.6%	7.9%	52.4%	64.5%
6	731718	731861	10189	100%	37.4%	35.9%	35.9%	34.5%	36.2%	40.5%	5.9%	6.0%	5.9%	6.0%	6.4%	6.4%	4.2%	34.8%	36.1%
7	664891	659776	-57438	100%	76.8%	72.1%	67.5%	72.3%	73.3%	79.8%	34.4%	34.2%	33.6%	33.6%	33.7%	34.0%	3.9%	61.1%	73.9%
8	738508	734134	7099	100%	71.9%	67.1%	66.0%	70.8%	69.2%	74.7%	16.9%	16.9%	16.6%	16.6%	16.3%	16.1%	30.8%	77.3%	73.0%
NDLEG Plan A																			
CD	POP10_A	POP10	DEV.	Current	FED_DIFFM	ST_DIFFM	GOV16DIFF	GOV10DIFF	PRES40%	PRES60%	AA_A%	AA%	AA18_A%	AA18%	NHAA%	NHAA18%	HISP%	HISP18%	HISP 10%
1	726674	725163	2545	77.2	36.9%	34.2%	34.5%	32.4%	34.9%	38.8%	11.1%	11.3%	10.7%	10.5%	11.1%	10.8%	3.36%	47.5%	39.1%
2	721895	719537	366	71.6	52.4%	58.1%	48.2%	47.0%	49.6%	53.2%	36.9%	36.8%	34.6%	34.5%	36.3%	34.2%	5.25%	44.8%	59.7%
3	719152	721938	-2377	68.0	39.8%	53.7%	53.9%	53.4%	36.9%	63.8%	34.3%	34.3%	32.4%	32.7%	33.9%	32.6%	6.59%	71.3%	63.6%
4	722495	721016	966	83.7	75.3%	73.3%	67.4%	71.9%	72.0%	78.4%	34.8%	34.5%	34.3%	34.2%	33.7%	33.5%	33.59%	81.8%	75.1%
5	724149	723836	3628	86.4	60.3%	59.8%	55.8%	61.1%	56.2%	64.4%	35.4%	35.3%	33.9%	33.9%	34.8%	33.4%	6.21%	73.8%	62.1%
6	719962	720897	-1397	38.6	33.1%	49.8%	48.3%	51.2%	49.5%	46.7%	11.8%	12.0%	11.6%	11.8%	12.1%	11.5%	10.47%	57.3%	51.8%
7	718735	714439	-2794	83.5	73.8%	68.5%	64.8%	67.9%	69.7%	76.8%	34.8%	34.3%	33.6%	33.2%	33.9%	33.8%	3.17%	77.5%	71.8%
8	721388	721316	360	81.4	66.4%	63.1%	62.0%	66.3%	63.8%	69.8%	17.3%	17.3%	17.1%	17.1%	16.7%	16.6%	14.9%	70.5%	67.0%
NDLEG Plan B																			
CD	POP10_A	POP10	DEV.	Current	FED_DIFFM	ST_DIFFM	GOV16DIFF	GOV10DIFF	PRES40%	PRES60%	AA_A%	AA%	AA18_A%	AA18%	NHAA%	NHAA18%	HISP%	HISP18%	HISP 10%
1	726674	725163	2545	77.2	36.9%	34.2%	34.5%	32.4%	34.9%	38.8%	11.1%	11.3%	10.7%	10.5%	11.1%	10.8%	3.4%	47.5%	39.1%
2	721840	719882	411	71.8	52.4%	58.1%	48.2%	47.6%	49.6%	53.2%	36.9%	36.8%	34.7%	34.5%	36.3%	34.2%	5.4%	44.8%	59.7%
3	719152	721938	-2377	68.0	39.8%	53.7%	53.9%	53.4%	36.9%	63.8%	34.3%	34.3%	32.4%	32.7%	33.9%	32.6%	6.1%	71.3%	63.6%
4	722495	721016	966	83.7	75.3%	73.3%	67.4%	71.9%	72.0%	78.4%	34.8%	34.5%	34.3%	34.2%	33.7%	33.5%	33.6%	81.8%	75.1%
5	724149	723836	3628	86.4	60.3%	59.8%	55.8%	61.1%	56.2%	64.4%	35.4%	35.3%	33.9%	33.9%	34.8%	33.4%	6.2%	73.8%	62.1%
6	722879	724441	1359	82.2	52.1%	49.1%	48.4%	50.8%	48.3%	53.9%	12.3%	12.5%	11.4%	11.7%	12.1%	11.4%	12.7%	56.8%	50.6%
7	718488	714584	-3854	83.5	73.0%	68.5%	64.8%	67.9%	69.7%	76.0%	34.8%	34.3%	33.5%	33.3%	33.9%	33.8%	3.3%	77.5%	71.8%
8	718832	723772	-3477	87.3	67.1%	64.7%	63.4%	65.9%	64.7%	69.8%	16.9%	17.2%	16.7%	17.2%	16.8%	16.7%	14.9%	71.3%	68.0%
NDLEG Plan C																			
CD	POP10_A	POP10	DEV.	Current	FED_DIFFM	ST_DIFFM	GOV16DIFF	GOV10DIFF	PRES40%	PRES60%	AA_A%	AA%	AA18_A%	AA18%	NHAA%	NHAA18%	HISP%	HISP18%	HISP 10%
1	726674	725163	2345	77.2	36.9%	34.2%	34.5%	32.4%	34.9%	38.8%	11.1%	11.3%	10.7%	10.5%	11.1%	10.8%	3.4%	47.5%	39.1%
2	726840	722469	3316	68.9	51.4%	49.2%	49.4%	46.5%	49.8%	53.9%	35.8%	35.8%	33.7%	33.6%	35.4%	33.3%	5.1%	67.7%	58.7%
3	723695	725377	1164	81.9	57.6%	53.4%	51.9%	52.8%	54.8%	60.2%	22.1%	22.3%	20.7%	20.9%	22.0%	20.7%	6.1%	69.2%	61.6%
4	719638	718211	-1896	69.6	78.8%	73.8%	70.2%	74.0%	74.5%	81.3%	34.8%	34.8%	34.6%	34.5%	33.9%	33.8%	14.2%	84.0%	78.1%
5	728622	719490	-1807	90.8	61.7%	61.4%	57.3%	62.8%	57.9%	66.8%	38.1%	38.1%	36.8%	36.8%	37.6%	36.4%	5.8%	73.1%	63.5%
6	719962	720897	-1397	38.6	33.1%	49.8%	48.3%	51.2%	49.5%	46.7%	11.8%	12.0%	11.6%	11.8%	12.1%	11.5%	10.6%	57.3%	51.8%
7	718735	714439	-2794	83.5	73.8%	68.5%	64.8%	67.9%	69.7%	76.8%	34.8%	34.3%	33.6%	33.2%	33.9%	33.8%	3.2%	77.5%	71.8%
8	721388	721316	360	81.4	66.4%	63.1%	62.0%	65.3%	63.8%	69.8%	17.3%	17.3%	17.1%	17.1%	16.7%	16.6%	14.9%	70.5%	67.0%

795 000040H

MIDLEG_Flex D																			
CD	POP10_A	POP10	DEV.	Current	FED_DIFFM	ST_DIFFM	GOVT60%	GOVT10%	PERM40%	PERM60%	AA_A%	AA%	AA18_A%	AA18%	NHAA%	NHAA18%	HISP%	HISP10%	HISP10%
1	726974	725163	2545	77.2	36.9%	34.2%	34.5%	32.6%	34.9%	36.8%	11.1%	11.3%	10.7%	10.9%	11.1%	10.8%	3.4%	67.5%	39.1%
2	723537	723719	838	69.6	50.8%	48.8%	49.4%	46.2%	48.2%	53.2%	23.5%	23.3%	20.8%	21.1%	22.9%	20.8%	5.9%	67.7%	38.7%
3	718719	717993	-3810	30.5	39.8%	36.6%	52.4%	53.7%	55.9%	62.0%	38.2%	38.2%	25.2%	25.1%	25.8%	24.9%	4.2%	67.5%	60.3%
4	723695	721816	966	53.7	77.3%	73.3%	67.4%	71.9%	72.0%	76.4%	54.6%	54.3%	54.3%	54.2%	53.7%	53.5%	13.8%	61.8%	75.1%
5	724149	723656	3459	85.4	60.3%	59.8%	55.8%	61.1%	56.3%	64.6%	36.4%	33.3%	33.9%	33.8%	34.8%	33.4%	6.2%	73.8%	62.1%
6	723879	724441	1359	72.2	52.1%	49.1%	48.4%	50.6%	44.3%	53.9%	12.3%	12.5%	11.4%	11.7%	12.1%	11.4%	12.5%	58.0%	58.0%
7	718726	714412	-3805	66.4	38.4%	72.5%	66.9%	72.5%	73.0%	79.5%	56.1%	55.9%	54.8%	54.3%	55.4%	53.8%	4.5%	83.1%	77.8%
8	718832	723772	-3677	67.3	67.1%	63.7%	62.4%	68.9%	64.7%	69.8%	16.8%	17.2%	16.7%	17.2%	16.8%	16.7%	14.8%	71.3%	68.0%
MIDLEG_Flex E																			
CD	POP10_A	POP10	DEV.	Current	FED_DIFFM	ST_DIFFM	GOVT60%	GOVT10%	PERM40%	PERM60%	AA_A%	AA%	AA18_A%	AA18%	NHAA%	NHAA18%	HISP%	HISP10%	HISP10%
1	726974	725163	2545	77.2	36.9%	34.2%	34.5%	32.6%	34.9%	36.8%	11.1%	11.3%	10.7%	10.9%	11.1%	10.8%	3.4%	67.5%	39.1%
2	724843	723469	3314	68.9	51.4%	49.2%	49.4%	46.5%	48.8%	53.8%	23.9%	23.7%	23.0%	23.0%	23.0%	22.3%	5.1%	67.7%	38.7%
3	723693	725377	1164	61.9	57.8%	53.4%	51.9%	52.8%	54.8%	60.3%	22.1%	22.3%	20.7%	20.9%	22.0%	20.7%	6.1%	60.3%	61.8%
4	721364	719931	-185	63.4	79.3%	77.3%	71.9%	77.7%	73.8%	82.5%	55.9%	55.5%	54.3%	55.3%	54.8%	54.5%	14.3%	83.2%	79.7%
5	721718	720488	189	91.7	61.7%	61.4%	57.3%	62.3%	57.3%	65.7%	38.0%	38.8%	36.7%	36.7%	37.5%	36.1%	5.7%	72.0%	63.4%
6	719062	726897	-1567	50.6	33.1%	48.8%	49.3%	51.2%	49.3%	56.7%	11.8%	12.4%	11.8%	11.8%	12.1%	11.5%	10.8%	57.3%	51.8%
7	718735	714429	-2794	83.5	73.8%	68.5%	64.8%	67.9%	69.7%	76.8%	54.8%	54.3%	53.8%	53.2%	53.9%	53.8%	3.3%	77.5%	71.8%
8	721564	721199	69	56.1	65.8%	62.3%	61.3%	64.8%	63.1%	68.3%	16.1%	16.1%	15.7%	15.7%	15.8%	15.2%	13.4%	69.5%	66.3%
MIDLEG_Flex F																			
CD	POP10_A	POP10	DEV.	Current	FED_DIFFM	ST_DIFFM	GOVT60%	GOVT10%	PERM40%	PERM60%	AA_A%	AA%	AA18_A%	AA18%	NHAA%	NHAA18%	HISP%	HISP10%	HISP10%
1	726974	725163	2545	77.2	36.9%	34.2%	34.5%	32.6%	34.9%	36.8%	11.1%	11.3%	10.7%	10.9%	11.1%	10.8%	3.4%	67.5%	39.1%
2	724843	723469	3314	68.9	51.4%	49.2%	49.4%	46.5%	48.8%	53.8%	23.9%	23.7%	23.0%	23.0%	23.0%	22.3%	5.1%	67.7%	38.7%
3	723693	725377	1164	61.9	57.8%	53.4%	51.9%	52.8%	54.8%	60.3%	22.1%	22.3%	20.7%	20.9%	22.0%	20.7%	6.1%	60.3%	61.8%
4	721364	719931	-185	63.4	79.3%	77.3%	71.9%	77.7%	73.8%	82.5%	55.9%	55.5%	54.3%	55.3%	54.8%	54.5%	14.3%	83.2%	79.7%
5	721718	720488	189	91.7	61.7%	61.4%	57.3%	62.3%	57.3%	65.7%	38.0%	38.8%	36.7%	36.7%	37.5%	36.1%	5.7%	72.0%	63.4%
6	719062	726897	-1567	50.6	33.1%	48.8%	49.3%	51.2%	49.3%	56.7%	11.8%	12.4%	11.8%	11.8%	12.1%	11.5%	10.8%	57.3%	51.8%
7	718735	714429	-2794	83.5	73.8%	68.5%	64.8%	67.9%	69.7%	76.8%	54.8%	54.3%	53.8%	53.2%	53.9%	53.8%	3.3%	77.5%	71.8%
8	718842	718394	-2687	66.8	65.2%	61.7%	60.6%	63.9%	62.6%	67.8%	16.5%	16.5%	16.2%	16.2%	16.0%	15.8%	14.9%	68.3%	65.7%
Black Caucus A																			
CD	POP10_A	POP10	DEV.	Current	FED_DIFFM	ST_DIFFM	GOVT60%	GOVT10%	PERM40%	PERM60%	AA_A%	AA%	AA18_A%	AA18%	NHAA%	NHAA18%	HISP%	HISP10%	HISP10%
1	721539	722712	0	82.2%	36.0%	35.8%	35.3%	33.9%	36.1%	38.8%	11.3%	11.4%	11.0%	11.1%	11.3%	11.0%	3.6%	69.6%	41.4%
2	721539	719370	0	75.1%	46.8%	44.3%	44.0%	43.0%	46.3%	51.1%	21.5%	21.4%	19.5%	19.3%	21.1%	19.1%	5.0%	64.3%	53.3%
3	721539	723634	0	63.9%	34.9%	34.9%	33.1%	34.8%	35.7%	40.0%	23.8%	23.4%	23.9%	24.3%	23.8%	24.0%	4.3%	69.8%	61.7%
4	721539	720083	0	69.8%	86.1%	86.1%	82.2%	89.4%	85.1%	96.9%	58.8%	58.7%	58.8%	57.9%	57.7%	57.8%	18.3%	92.3%	90.8%
5	721538	720439	-1	93.7%	62.1%	61.8%	57.6%	63.4%	57.9%	66.2%	39.8%	39.8%	38.5%	38.5%	39.1%	38.1%	6.4%	73.4%	64.0%
6	721539	728811	0	61.2%	39.0%	37.5%	37.2%	36.5%	35.6%	42.4%	6.5%	7.2%	6.1%	7.6%	7.8%	6.9%	4.7%	41.5%	36.3%
7	721539	715935	0	91.7%	80.8%	76.4%	72.3%	76.6%	77.8%	83.8%	58.7%	58.5%	56.7%	55.6%	58.0%	56.2%	3.8%	86.4%	83.9%
8	721538	721147	0	80.7%	68.8%	63.6%	63.9%	67.7%	65.9%	71.7%	13.8%	13.9%	13.2%	13.2%	13.4%	12.8%	17.4%	74.5%	70.4%

Block Census 9																			
CD	POP10_A	POP10	DEV.	Current	PRD_DIFFM	ST_DIFFM	GOV%ED%	GOV18U%	PRIM%ON	PRIM%ON	AA_A%	AA%	AA18_A%	AA18%	NHAA%	NHAA18%	H%P%	H%P18%	H%E10%
1	721529	722712	0	32.2%	34.0%	33.7%	33.3%	33.0%	36.1%	36.8%	11.3%	11.4%	11.0%	11.1%	11.3%	11.0%	3.4%	49.6%	41.4%
2	721528	719085	0	70.5%	68.7%	66.1%	46.8%	43.3%	46.4%	50.8%	19.9%	19.8%	17.8%	17.4%	19.6%	19.1%	5.8%	65.8%	58.1%
3	721527	725198	0	65.1%	53.1%	51.1%	49.3%	46.9%	52.1%	58.0%	18.3%	19.8%	18.0%	18.0%	19.5%	18.3%	5.6%	65.7%	58.2%
4	721525	720683	0	94.0%	88.1%	86.1%	82.2%	80.4%	83.1%	90.9%	38.8%	38.7%	38.0%	37.9%	37.7%	37.0%	18.3%	92.3%	90.8%
5	721526	720470	-1	83.7%	82.1%	81.9%	77.8%	63.4%	57.9%	66.2%	39.8%	39.6%	32.9%	38.5%	38.1%	38.1%	6.6%	73.4%	64.8%
6	721529	728811	0	93.2%	39.8%	37.5%	37.2%	36.5%	35.6%	43.4%	6.5%	7.3%	6.1%	7.8%	7.0%	6.9%	4.7%	41.5%	36.3%
7	721529	716046	0	63.3%	83.9%	79.4%	75.2%	81.4%	80.6%	87.1%	66.1%	65.8%	64.2%	63.9%	63.3%	63.3%	3.8%	89.1%	85.8%
8	721529	721167	0	80.7%	68.8%	63.8%	62.9%	67.7%	65.5%	71.7%	13.9%	13.9%	13.2%	13.2%	13.4%	12.8%	17.4%	76.3%	70.4%

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boundaries of the newly adopted Congressional districts reflect a number of considerations, including . . . partisan consideration."[213]

121. On November 7, 2011, Democratic Senator Jamie Raskin explained of the redistricting process: "Democrats control the redistricting process in Maryland" and exercising that control, they "hoped to pick up a seventh House seat through redistricting."[214]

122. GRAC member Michael Busch, the Maryland House Speaker, said: "I think the numbers will show that [the Congressional Plan] makes [the Sixth District] pretty competitive," in favor of Democrats, where as it previously was a safely Republican district.[215]

123. GRAC Chair Jeanne Hitchcock explained that under the Congressional Plan the Sixth District was "dominated" by Democratic voters in Montgomery County.[216]

IV. OBJECTIVE DEMOGRAPHIC EVIDENCE DEMONSTRATES THAT THE MARYLAND LEGISLATURE INTENDED TO BURDEN THE REPRESENTATIONAL RIGHTS OF REPUBLICANS LIVING IN NORTHWESTERN MARYLAND

124. Changes to the 6th Congressional District in the 2011 Congressional Plan severely altered the partisan composition of its registered voters. The interchange of population among districts far exceeded the modest changes needed to rebalance the District's total population based on the 2010 decennial census. (*See* Paragraph 20, above.) My partisan gain and loss accounting presented below reveals a telltale

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[213] *Id.*

[214] *Id.*

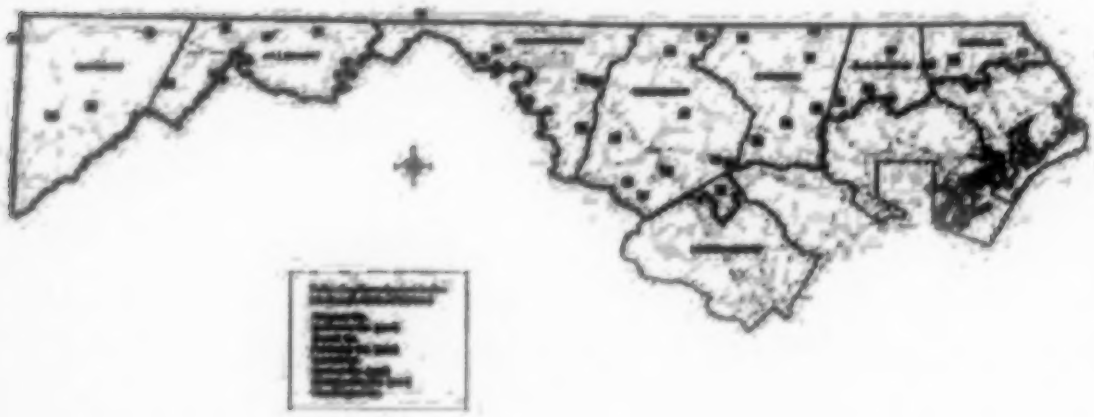
[215] *Id.*

[216] *Id.*

statistical footprint which exposes an underlying partisan intent as the predominant motivation behind redrawing CD6 in its current form. In my opinion, that obvious statistical footprint presents unambiguous evidence of partisan intent as the predominant motivating factor for dismembering CD6. The legitimate aims of equalizing the District's total resident population and respecting existing communities of interest insofar as possible were subordinated in favor of that single-minded partisan intent. (*See* Paragraph 21, above.)

125. Prior to redistricting, 2002 Congressional District 6 included all of western Maryland and extended across the State's northern border, encompassing mostly rural areas and a heavily Republican electorate (see Figure 1). In 2010, registered Republicans outnumbered registered Democrats by 1.3 to 1 among eligible active voters there and comprised 47% of all eligible active voters.

Figure 1. 2002 Congressional District 6



126. Redistricting drastically altered the 6th Congressional District as reconfigured in 2012 (see Figure 2). A total of 189 precincts were interchanged—i.e., either switched out of the former district or into the newly redrawn district. In 2012, it was Democrats who outnumbered Republicans by 1.3 to 1 among eligible active voters, and Republicans' share stood at just 33%.

Figure 2. 2011 Congressional District 6

127. This 189-precinct interchange left an indelible statistical footprint of partisan intent. To show its pattern, I reconstructed how the redrawn boundaries of CD6 altered the assignment of each individual precinct that was ever part of CD6, either before or after redistricting. Table 1 summarizes the results of my analysis (based on the precinct-level reconstruction documented in Appendix A). The reader can follow the geographic pattern of changes by referring to Figures 1 and 2, which show CD6 before and after that 189-precinct interchange.

128. On the northeast, the original 111th Congressional District 6 included part of Harford County (Figure 1, top right). Redistricting removed all 9 of that county's precincts from the newly redrawn 113th Congressional District 6. This decision had the effect of subtracting 11,426 of its existing Republican registrants and 6,757 of its existing Democratic registrants.

129. In Baltimore County (to the west), redistricting removed all 11 of that county's precincts from the newly redrawn 113th Congressional District 6. This decision had the effect of subtracting 2,745 of its existing Republican registrants and 9,576 of its existing Democratic registrants.

130. In Carroll County (further west), redistricting removed all 36 of that county's precincts from the newly redrawn 113th Congressional District 6. This decision had the effect of subtracting 56,870 of its existing Republican registrants and 32,778 of its existing Democratic registrants.

131. In Frederick County (still further west), redistricting removed 29 of that county's 40 precincts entirely, plus portions of the 11 other precincts, from the newly redrawn 113th Congressional District 6. This decision had the effect of subtracting nearly 41,265 of its existing Republican registrants and nearly 28,284 of its existing Democratic registrants.

132. In Montgomery County (to the south), redistricting removed just three of that county's precincts from the newly redrawn 113th Congressional District 6. This decision had only a slight effect, subtracting 2,065 existing Republican registrants and 1,624 existing Democratic registrants. However, redistricting added 90 precincts from former Districts 4 and 8 in the original 111th Congressional District plan. This decision increased Republican registrants by 48,913 but boosted Democratic registrants by 107,119—a net gain of over 58 thousand Democratic voters.

133. All in all, decisions to amputate communities of interest in Harford, Baltimore, and Carroll counties evidence a singular purpose: to subtract Republican voters. The

decision to remove 11 precincts from Baltimore County (favoring Republican voters) created the further possibility of attaching Republican Frederick county—and the added possibility of connecting Montgomery County, for a further net gain of thousands of Democratic voters.

134. The overall effect of the 189-precinct interchange that I reconstructed and show in Table 1 was a net reduction of 65,458 Republican registrants and an offsetting net increase of 28,100 Democratic registrants. Together, these changes favored Democrats with a *net gain* of 93,558 registrants. Recall that the legitimate aim of equalizing the total resident population of CD6 necessitated simple boundary adjustments to register a *net removal* of just 17,249 district residents.

Table 1. Precinct-Level Accounting of Partisan Gain and Loss

Partisan Gain and Loss Accounting			
[illegible]	[illegible]	[illegible]	
Baltimore County	Removed all 11 precincts	Voters FROM CD (to CD):	
		Republican	-2,74
		Democrat	-8,57
Carroll County	Removed all 36 precincts	Voters FROM CD (to CD):	
		Republican	-58,87
		Democrat	-32,73
Frederick County	Removed 40 precincts	Voters FROM CD (to CD):	
		Republican	-43,36
		Democrat	-36,70
Harford County	Removed all 9 precincts	Voters FROM CD (to CD):	
		Republican	-43,43
		Democrat	-8,75
Montgomery County	Added 90 precincts	Voters TO CD (from CD & CD):	
		Republican	48,91
		Democrat	107,13
	Removed 3 precincts	Voters FROM CD (to CD):	
		Republican	-2,85
		Democrat	-1,48
Total, all 3 counties	189 precincts interchanged	Net Effect of Interchanges:	
		Republican	-97,49
		Democrat	+28,10
Source: See Appendix B.			
Note: 58 precincts unaccounted for due to existing inconsistent precinct numbering.			

135. An unmistakable partisan logic and intent drove the redistricting of CD6. The former district was dismembered and reassembled so as to exclude its existing registered Republicans in four counties (Baltimore, Carroll, Frederick, and Harford) and to incorporate registered Democrats by attaching portions of Montgomery County where they were concentrated.

V. THE NEW BOUNDARIES OF THE SIXTH DISTRICT CANNOT BE EXPLAINED BY TRADITIONAL REDISTRICTING PRINCIPLES, SUCH AS MAINTAINING EXISTING COMMUNITIES OF INTEREST

136. The net gain of over 58 thousand Democratic registrants from attaching portions of Montgomery County has been justified as a legitimate effort to respect a "community of interest." This implausible justification has a necessary premise: that Montgomery County residents who are employed share a common interest because most of them commute to work in the District of Columbia, via Interstate 270. This DC-bound commuter population, so the argument goes, is a vital "community of interest," which necessitated adding a portion of Montgomery County to CD6 and retaining only a portion of Frederick County in the newly drawn CD6.

137. This "community of interest" justification fades in the face of US Census Bureau data on journey to work (see Table 2). Only 21.3% of workers living in Montgomery County commute to a job in DC; most commute to jobs located *within* Montgomery County (59.4%) or in neighboring Frederick, Howard, Anne Arundel, or Prince George's counties. Among workers in Frederick County, a miniscule 3.4% commute to a job in DC; and in Washington County, just 1.1% do so.

Table 2

Residence and Workplace Commuting: 2006-10					
County of Residence	Total workers		Commuting to workplace in:		
	No.	%	District of Columbia	Own county of residence	All other workplaces
Montgomery	485,954	100%	21.5%	59.4%	19.1%
Frederick	118,462	100%	5.4%	57.7%	36.9%
Washington	89,709	100%	1.1%	66.4%	32.5%
Source: US Census Bureau, American Community Survey, 5-year 2010 file.					

138. Communities of interest are diverse and varied. The most clearly recognized communities of interest center on the residents of established communities, such as incorporated cities and towns and Census Designated Places. The U.S. Census Bureau defines such established communities collectively as Census "Places," recognizing that their residents share well-defined commonalities of interest tied to place. Census Designated Places (CDPs) have been recognized and identified in each decennial census since 1980 as the counterparts of incorporated cities, towns, and villages. CDPs are populated areas that generally include one officially designated but currently unincorporated small community, for which the CDP is named, plus surrounding inhabited countryside of varying dimensions and, occasionally, other, smaller unincorporated communities as well. CDPs include small rural communities, *colonias* located along the U.S. border with Mexico, and unincorporated resort and retirement communities and their environs. Current Census Bureau criteria require that a CDP name "be one that is recognized and

used in daily communication by the residents of the community" (not "a name developed solely for planning or other purposes") and recommend that a CDP's boundaries be mapped based on the geographic extent associated with inhabitants' regular use of the named place.[217]

139. Communities of interest exist, as well, in the eyes of the beholder. Conceivably, one could imagine the 21.3% of Montgomery County workers, plus the 3.4% of Frederick County workers, who commute to jobs in DC as a "community of interest." This imagined possibility poses a real question of balance: Does any purported shared interest, unifying some small fraction of commuters, outweigh in importance the officially recognized shared interests among residents of an established Census Place within a Congressional district? That is, in balancing traditional redistricting criteria, can anyone justify according more importance to an imagined "community of interest" embodying daily commuters than to established communities of interest that are officially recognized over many years as "Census Places" by the U.S. Census Bureau?

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[217] *See* US Census Bureau, "Geographic Terms and Concepts—Place," https://goo.gl/T7aKiL (last visited April 5, 2017).

Table 3

Established Communities of Interest Split by Redistricting						
	No. of communities of interest within 111th CD 6			No. of communities of interest within 113th CD 6		
Type of place	Whole	Portion	% split	Whole	Portion	% split
Incorporated						
Cities	3	0	0%	1	2	67%
Towns	14	0	0%	3	1	25%
Unincorporated						
CDPs	14	4	22%	5	10	67%
Other						
Total, all places	31	4	11%	9	13	59%

Source: Author's tabulation of all Census Places wholly or partly within 111th and 113th CDs.

140. The post-2010 reconfiguration of CD6, as shown above, entailed a massive interchange of territory. Accompanying that interchange was the dismemberment of many existing communities of interest; specifically, the majority of established Census Places within the 113th CD6. Table 3 documents this unmistakable effect.

141. Prior to redistricting, all the three incorporated cities and all 14 incorporated towns within the 111th CD6 were wholly intact; not a single one of these established communities of interest was split. After redistricting, two of the three incorporated cities and one of the four incorporated towns within the 113th CD6 was split.

142. As noted above (see Paragraph 140), an unincorporated CDP is an officially recognized community that bears a locally recognized name. Prior to redistricting, only 22% of the 18 CDPs within the 111th CD6 was split. After redistricting, 67% of the 15 CDPs within the 113th CD6 were split.

143. The bottom row of Table 3 summarizes the overall collateral damage inflicted on recognized communities of interest in the wake of redistricting. Only 11% of such communities in the 111th CD6 were split; fully 59% of such communities ended up being split in the 113th CD6. In my opinion, this disparity is an indelible statistical footprint of intent.

144. The data in Table 3 discredit any suggestion that a purported shared interest among a small fraction of resident commuters could justify splitting the majority of established Census Places within the 113th CD6. Even granting the existence of that purported shared interest, its significance pales relative to the collective shared interests of the 13 established Census places whose boundaries ended up being split in the 113th CD6.

145. The total population of CD6 could easily have been rebalanced without splitting so many existing Census Places. The post-redistricting increase in non-intact Census places (from 11% to 59% of all places) is a "smoking gun" that exposes motives beyond simply rebalancing total population. The predominant emphasis on "cracking" the 6th District blatantly subordinated the preservation of existing communities of interest to removing Republican registered voters and scattering them across other districts.

VI. THE PROPOSED CONGRESSIONAL PLAN UNDERMINES ENDURING COMMON INTERESTS SHARED AMONG ITS ORIGINAL RESIDENTS

146. Enduring commonalities of interest are apparent within the 111th CD6. Recurrent themes voiced in deposition testimonies[218] reflect common values deriving from the origins and economic circumstances of its residents, the low-density rural and small-town communities in which they live and work, and the traditional livelihoods their local economies have offered its residents.

147. Before redistricting, the population of the 111th CD6 was relatively uniform. Its residents were mostly native Marylanders, living and working in exurban and rural communities beyond the District of Columbia and its daily commuter shed. Many of these residents had modest levels of educational attainment and per capita income, and their communities registered comparatively high levels of poverty and economic dependence.

148. Figures 3 through 7 provide a visual overview of various aspects of these uniformities. Specifically, they highlight key differences between newly added Montgomery County and other counties in the original 111th CD6 (from Garrett County on the west to Harford County on the east).

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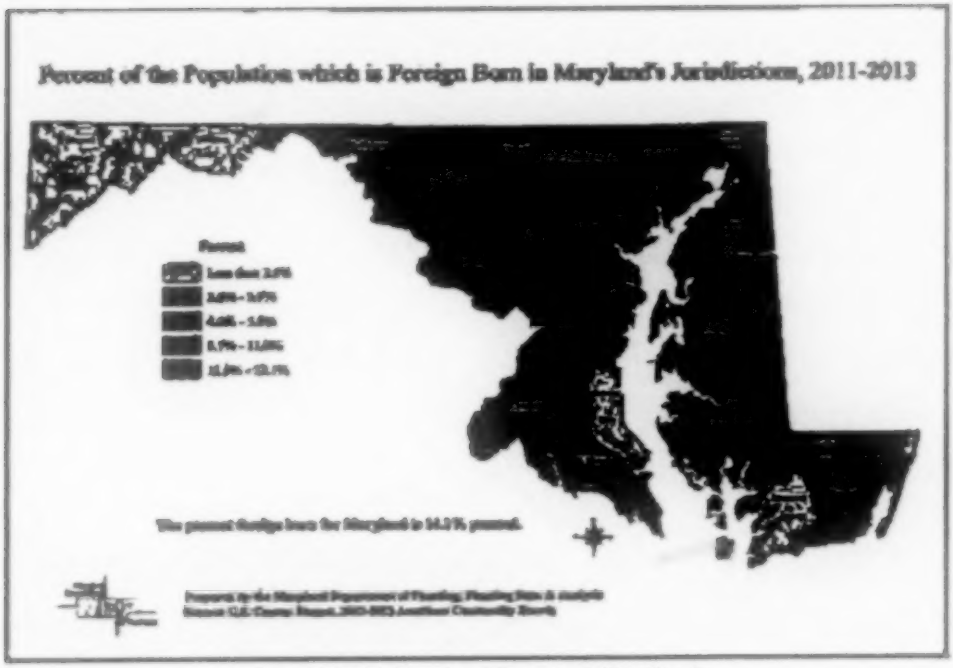
[218] *See, e.g.*, Deposition of Edmund Cueman (quoted at Paragraph 31 above); and Ropp Dep. at 67:2-13 (referencing being harmed by the 2011 redistricting: "I found that I was separated from areas that I aligned with. Like take, for example, speaking geographically, I live 10 miles away from a friend voting in a different congressional district. There was a disconnect between myself and my community as to who we would be voting for these positions. . . . I also felt very harmed because I saw many people in my community very frustrated with the process and very frustrated that there were not clear lines drawn to keep everybody together.").

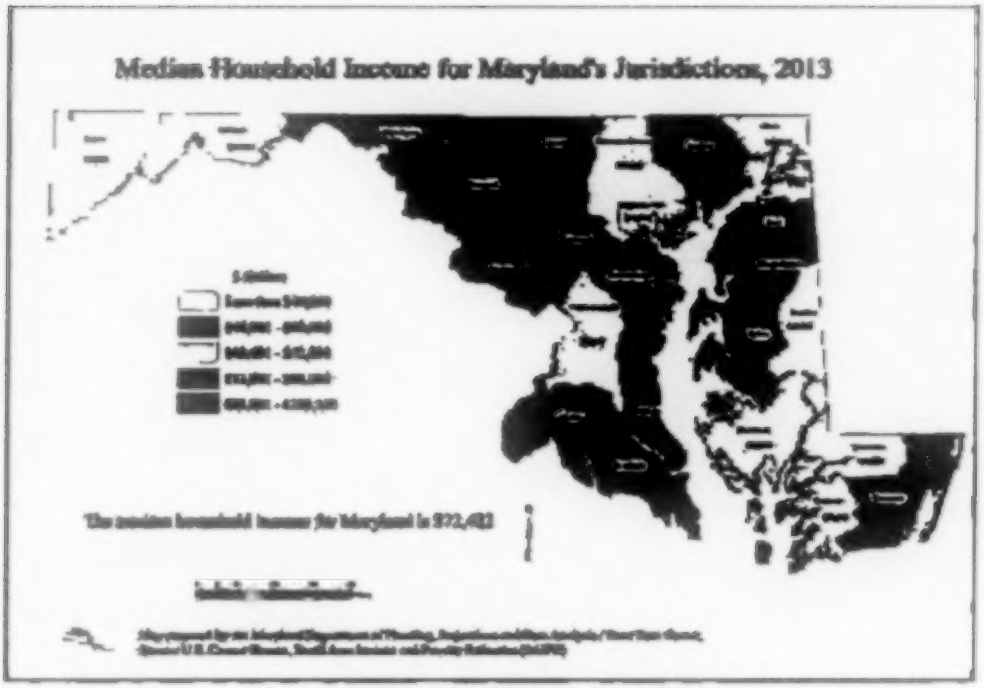
Figure 3.



Source: *2014 Maryland Statistical Handbook.*

149. As seen in Figure 3, foreign-born residents range from just 2% to no more than 11% of the population in any of the original counties in the 111th CD6. In Montgomery County, by contrast, foreign-born residents constitute 32% of the population.

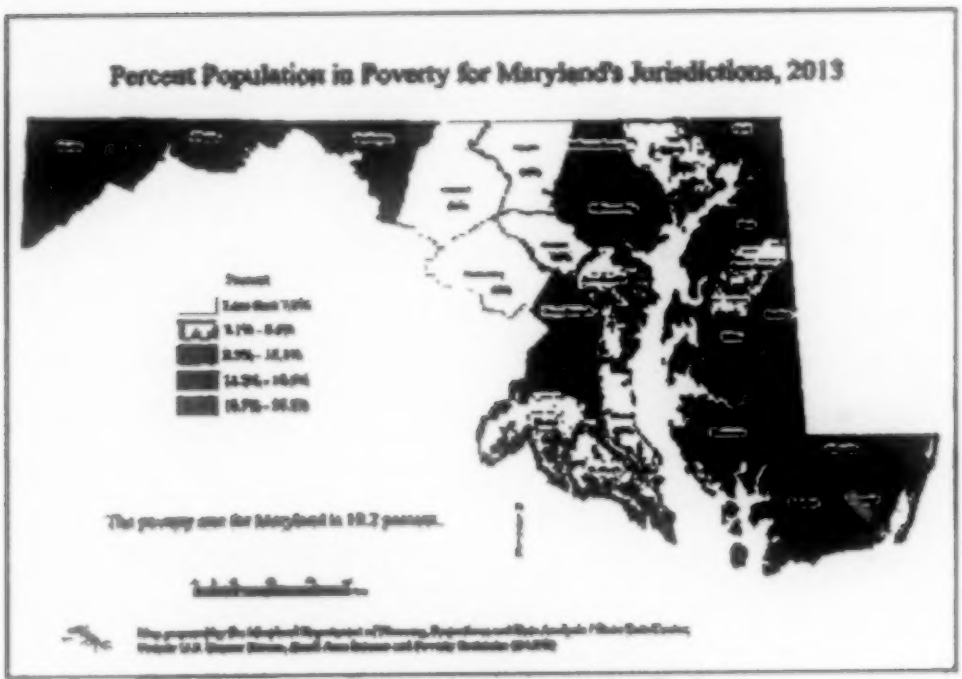
Figure 4



Source: *2014 Maryland Statistical Handbook.*

150. As seen in Figure 4, median household income is under $56,000 in Garrett, Allegany, and Washington counties (and under $83,500 in any other of the district's original counties). In Montgomery County, by contrast, median household income is $97,873.

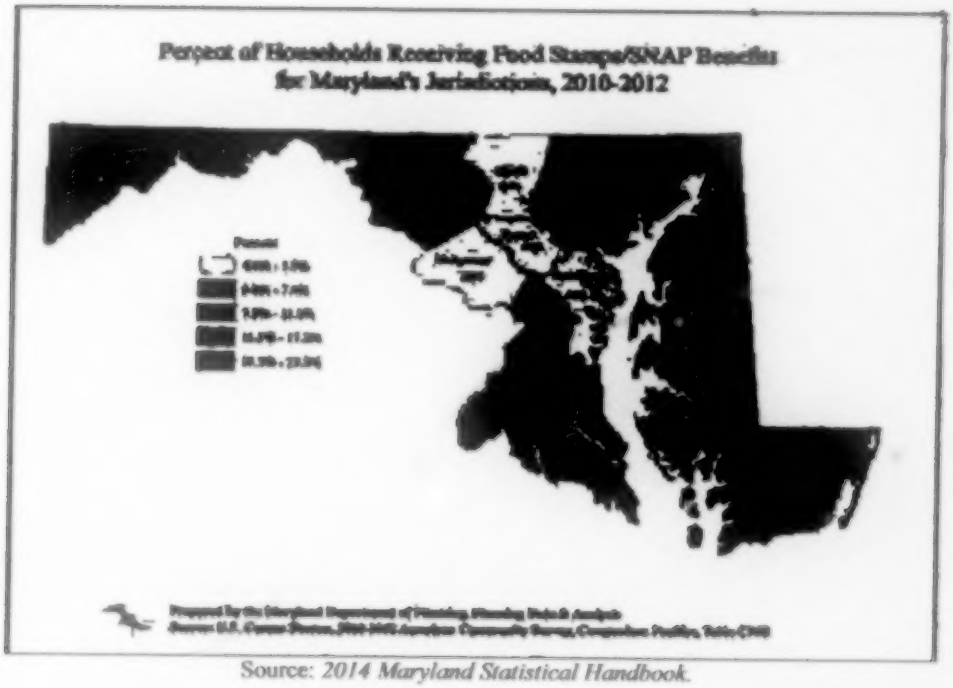
Figure 5



Source: *2014 Maryland Statistical Handbook.*

151. As seen in Figure 5, the percentage of residents in poverty ranges from 12.0% to 18.6% in Garrett, Allegany, and Washington counties, compared with 7.0% in Montgomery County.

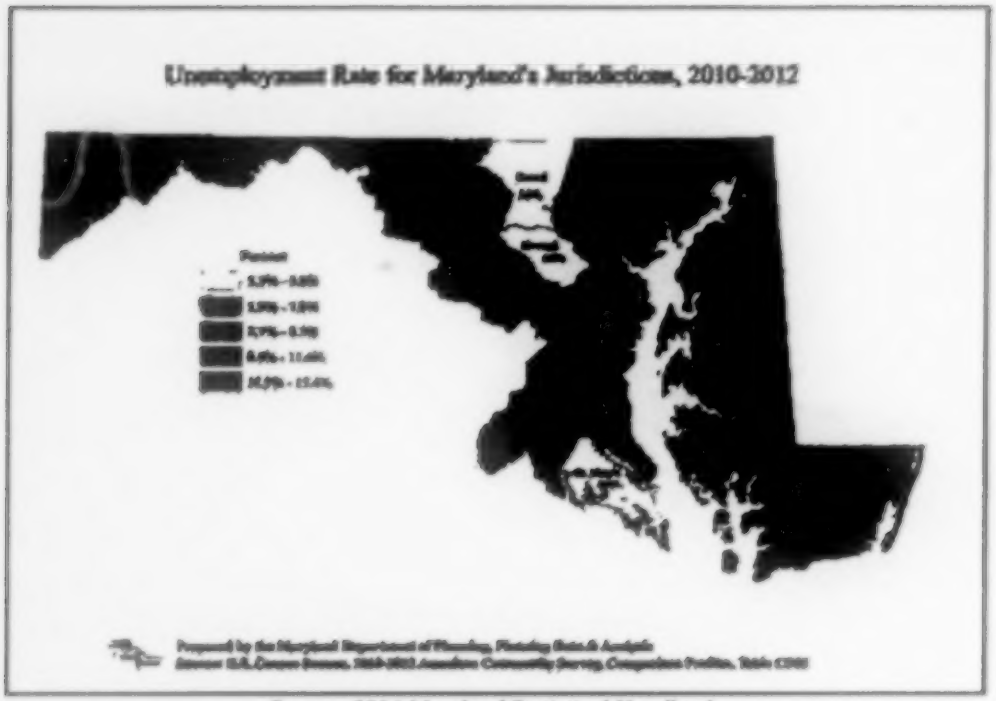
Figure 6



Source: *2014 Maryland Statistical Handbook.*

152. As seen in Figure 6, the percentage of households receiving food stamps/SNAP benefits ranges from 12.5% to 17.2% in Garrett, Allegany, and Washington counties, compared with 5.3% in Montgomery County.

Figure 7



Source: *2014 Maryland Statistical Handbook.*

153. As seen in Figure 7, the unemployment rate ranges from 7.3% to 9.5% in all but two of the counties originally in 2011 CD6, compared with 6.7% in Montgomery County.

154. Table 4 further amplifies on my central point here: The residents of the original 111th CD6 share long-standing common interests and values deriving from their origins and economic circumstances, the low-density rural and small-town communities in which they live and work, and the traditional livelihoods their local economies have offered its residents.

Table 4 County Socioeconomic Indicators

Maryland County	Density (persons per sq. mi.)	Farms per 1,000 residents	Per capita personal income (2009 $)	% of H'holds receiving Food Stamps or SNAP	% of persons 25+ with:		% Maryland born	% Foreign born	% Speaking Non-English Language at Home
					No HS diploma	BA degree or higher			
Characteristics of Counties Within Original 111th Congressional District 6									
Garrett	47	22.8	$36,001	14.1%	15%	19%	82%	2%	n.a.
Allegany	178	3.9	$32,186	17.2%	14%	17%	72%	2%	4%
Washington	325	5.8	$36,133	12.5%	14%	19%	83%	5%	7%
Frederick	360	5.5	$45,747	6.6%	8%	28%	50%	10%	13%
Carroll	334	8.5	$45,309	5.8%	8%	33%	57%	4%	5%
Baltimore	1,399	0.8	$48,819	9.2%	10%	35%	65%	12%	13%
Harford	565	2.3	$48,686	7.3%	8%	32%	69%	5%	8%
Median, all 7 counties	360	5.5	$45,309	9.2%	10%	33%	65%	5%	7%
Characteristics of Montgomery County Newly Added to 113th Congressional District 6									
Montgomery	2,021	0.5	$68,838	5.3%	9%	57%	24%	32%	35%
Source: US Census Bureau, American Community Survey 3-Year 2012 file. Access at: www.mdp.state.md.us/MSDC/American_Community_Survey/2010-2012ACS.shtml									

155. The reconfigured 113th CD6 switched out many of these small-town native-born Marylanders and replaced them with outsiders with more varied and dissimilar interests. This reconfiguration was accomplished by replacing several entire counties (Carroll, Frederick, and Harford) with portions of Montgomery County, thereby inserting into the new 113th CD6 various enclaves and other groups of persons born out-of-state and abroad.

156. As shown in Table 4, the socioeconomic profile of Montgomery County differs sharply from those of the seven original counties within the original 111th CD6:

- Montgomery County's population density (2,021 persons per square mile) is over five times the median population density of those seven original counties.
- The presence of farms per thousand residents, which is infinitesimal in Montgomery County, is 11 times more common on average in those seven original counties.
- Montgomery County residents register higher per capita personal income ($68,830) than the corresponding median value for residents of those seven original counties.
- In each of the seven original counties, the percentage of households receiving food stamps or SNAP benefits exceeds the corresponding 5.3% value for Montgomery County.
- On average, only 32% of residents in those seven original counties are four-year college graduates with a BA degree, compared with 57% of all Montgomery County residents.
- On average, 65% of residents in those seven original counties were born in Maryland, compared with 24% of all Montgomery County residents.
- 32% of Montgomery County residents are foreign-born (vs. 5% on average of those in the seven original counties), and 39% speak a language other than English at home (vs. 7% on average among residents of the seven original counties).

157. The pervasive, often sharp differences documented in Table 4 underscore the overall breadth of difference between the existing population of the 111th CD6 and the

newly-added population that has been attached to the 113th CD6. The low density and often rural character of communities, the economic circumstances and educational attainment of residents, and their origins and languages, show the extent to dissimilarity between these two fundamentally dissimilar populations.

158. Of particular note is the infusion into the new 113th CD6 of residents born out-of-state. In the new 113th CD6, the majority of residents (61%) are newcomers to Maryland rather than native-born Marylanders (vs. 43% in the former 111th CD6). One of every four residents of the 113th CD6 is foreign-born, compared with only one of every 13 residents of the 111th CD6.

159. This infusion of outsiders has produced a second-order effect. It has intensified neighborhood residential separation of native-born Marylanders from outsiders of dissimilar origins and backgrounds within CD6. Residential separation, as used here, denotes populations residing apart from one another, in different neighborhoods within CD6. Commonplace neighborhood residential separation—homeowners' separation from renters, for example, or retirees' separation from families with young children—reflects such communities of interest.

160. To quantify residential separation before and after redistricting, I have computed the Index of Dissimilarity (DI), which is widely used to gauge neighborhood residential segregation of Blacks and Whites.[219] This index ranges from 0.0 (absence of separation) to 1.0 (complete separation).

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[219] *See* U.S. Bureau of the Census, *Racial and Ethnic Residential Segregation in the United States: 1980-2000*, Appendix B: Measures of Residential Segregation. https://goo.gl/t9Lq7Y (last visited April 5, 2017).

161. DI furnishes me an objective metric for gauging how evenly two segments of the resident population are distributed across neighborhoods within CD6 both before and after redistricting. Residential separation would be least when native-born Marylanders and outsiders were found to be distributed in equal proportions in every census place within CD6. In this hypothetical case, DI would equal 0.0. Conversely, if both groups were entirely separate from each other, DI would equal 1.0. Conceptually, DI measures the percentage of a group's population that would have to change residence for each neighborhood to have the same percentage of that group as in CD6 overall.

162. The Dissimilarity Index increased from 21.0% in the 111th CD6 to 29.3% in the 113th CD6. Such an increase over so brief a period of time shows that redistricting had the second-order effect of separating the district's native-born Marylanders from outsiders incorporated into the district through district boundary changes.

163. Increased residential separation within an election district is potentially corrosive. Where it is generated abruptly by administrative action (as here) instead of emerging gradually through residential choices by individuals over many years, residential separation may undermine the long-standing commonalities of interest within that district. What once unified the district's residents may be supplanted by a heightened "us" vs. "them" mentality, fueling perceived differences among its residents.

VII. CONCLUSIONS

164. The original 111th CD6 was a legitimate "community of interest." Its residents shared long-standing common interests and values deriving from their origins and

economic circumstances, the low-density rural and small-town communities in which they live and work, and the traditional livelihoods their local economies have offered.

165. There is objective demographic evidence showing that the Maryland legislature intended to burden the representational rights of Republicans living in northwestern Maryland because of how they had voted in the past and the political party with which they had affiliated.

166. The 2011 reconfiguration of Maryland's Sixth Congressional District displays an unnecessarily extreme interchange of territory and population. That interchange of approximately 375,000 residents (fully half the district's population) far exceeded what was needed to accomplish the legitimate aim of equalizing the total resident population of CD6. Equalization necessitated only a slight 2.39-percent downward adjustment, easily accomplished through straightforward boundary adjustments to reduce the district's population by just 17,249 residents instead of interchanging ("swapping") over twenty times that number (375,000 district residents).

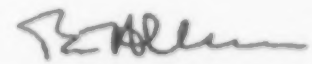
167. The reconfiguration of CD6 caused by the 2011 Congressional Plan cannot be explained by legitimate districting considerations, such as the preservation of existing communities of interest. In fact, the 2011 Congressional Plan dismembered CD6 itself and many well-defined established local communities of interest that existed within CD6. The direct cause of that dismemberment was the excessive interchange of territory and population.

168. The reconfiguration of CD6 caused by the 2011 Congressional Plan has had a latent divisive effect within the new district, evidenced by the abrupt increase in the value

of the Dissimilarity Index. That discernible increase is directly attributable to the infusion of outsiders, which has intensified neighborhood residential separation of native-born Marylanders from outsiders of dissimilar origins and backgrounds newly assigned to the 113th CD6. This abrupt increase in neighborhood residential separation has the potential to divide the district's native-born Marylanders from outsiders incorporated into the district through unnecessary district boundary changes.

169. Lastly, the Plan clearly manifests (and has accomplished) the obvious aim of replacing Republican-registered voters with non-Republican ones. This predominant emphasis on "cracking" the 6th District—that is, amputating territory so as to replace half of its inhabitants with former inhabitants of other districts—largely ignored existing communities of interest. Thus, its most inexplicable and therefore most telling effect was to single out Republican voters and diminish their presence in CD6.

Date: April 7, 2017



Dr. Peter A. Morrison

Subject: Re: LBC letter
From: jason.gleason03@gmail.com
Date: 5/19/2011 9:37 AM
To: "Brian Romick" <brianromick@gmail.com>

Um yea. Its a recipe for 5-3 not 7-1.
------Original Message------
From: Brian Romick
To: Jason Gleason
Subject: Re: LBC letter
Sent: May 19, 2011 9:28 AM

Not a good letter at all, I am worried that it will spook Cummings

On Wed, May 18, 2011 at 10:08 PM, <jason.gleason03@gmail.com> wrote:

> Have you seen the letter from the Leg Black Caucus in follow up to our meetings with them?
> Sent from my Verizon Wireless BlackBerry

Sent from my Verizon Wireless BlackBerry

CONFIDENTIAL

Gmail

Jason Gleason <jason.gleason03@gmail.com>

RE: Follow up question on maps

1 message

Eric Hawkins <ehawkins@ncecservices.com>
To: jason.gleason03@gmail.com

Sun, Mar 20, 2011 at 8:20 PM

Jason,

I have worked out a new version of the 7-1 plan in which you have nothing new in AA (keeping 144k of what Sarbanes currently have). Additions to the district include 79k in Howard with a 60% Dem. Performance, 16.8k in PG with at 69.8% Dem. Performance, and 83k in Montgomery at 67.8% DPFM. The district is currently overpopulated by ~23k and has a total Democratic Performance of 60%. Ruppersburger is under by ~23K and a Democratic Performance of 56.7% – a decline of 1.2% which we need to fix somehow.

I will be travelling back from Denver on Monday morning and will contact you on Tuesday with more details.

Eric

Eric Hawkins
NCEC Services, Inc.
202-459-2170
ehawkins@ncecservices.com

----Original Message----
From: jason.gleason03@gmail.com [mailto:jason.gleason03@gmail.com]
Sent: 03/17/2011 11:24 AM
To: Eric Hawkins
Subject: Re: Follow up question on maps

Understood. But I think my boss's reaction will be that he gave up Annapolis and will be picking up 200,000 new people all in the name of helping the 1st. No one else can claim a similar sacrifice and he can't pick up new, tough areas in AAC as well.

In reality, I think that if our dem performance is only improving by a little over a point, our actual election numbers may decrease if we get those new areas in AAC in the new map. He performs way above the dem average in his current AAC areas because he's spent four years of blood sweat and tears in those areas. He wouldn't have that same benefit in the new areas.

Maybe the 2nd can pick up a few of those areas in AAC? I think the constraints on the 7th may have to be reexamined in that context.
Sent from my Verizon Wireless BlackBerry

----Original Message----
From: "Eric Hawkins" <ehawkins@ncecservices.com>
Date: Thu, 17 Mar 2011 11:03:26
To: <jason.gleason03@gmail.com>
Subject: RE: Follow up question on maps

Completely understood. Just so you know the reason why this has been done is because we are able to improve the 3rd with other areas outside

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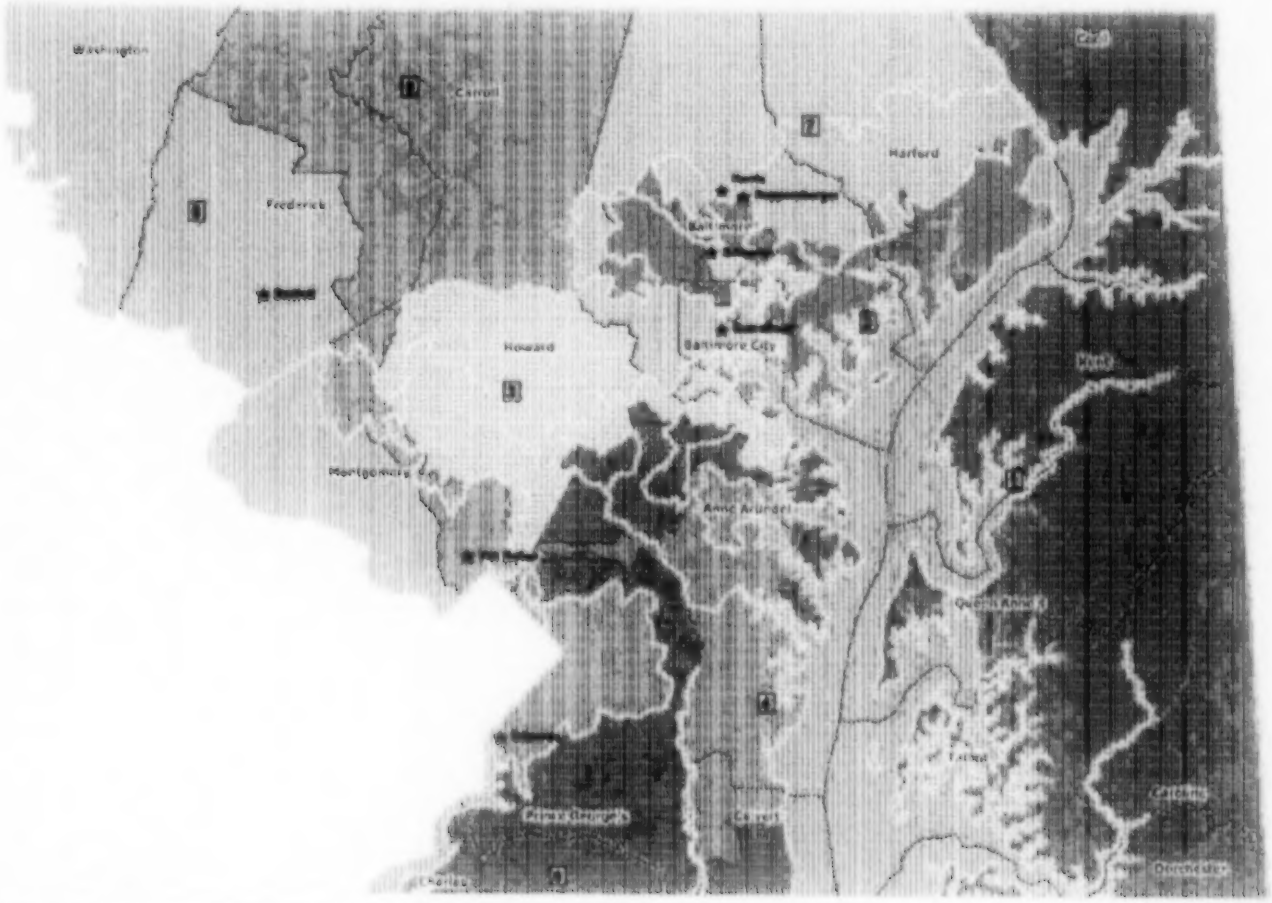
Carroll
Frederick
Howard
Harford
Baltimore City
Anne Arundel
Queen Anne's
Caroline

Gmail

Jason Gleason <jason.gleason03@gmail.com>

Re: Precincts

1 message

[redacted].com> Thu, Oct 13, 2011 at 2:35 PM

[redacted]

Thank you!
Sent from my Verizon Wireless BlackBerry

-----Original [redacted]-----
From: "Eric [redacted] <ehawkins@ncecservices.com>
Date: Thu, 13 Oct 2011 14:28:15
To: <jason.gleason03@gmail.com>
Subject: RE: Precincts

Here's what I got from the state.

Eric Hawkins
NCEC Services, Inc.
202-459-2170
ehawkins@ncecservices.com

-----Original Message-----
From: jason.gleason03@gmail.com [mailto:jason.gleason03@gmail.com]
Sent: 10/13/2011 10:13 AM
To: Brian Romick; Eric Hawkins
Subject: Precincts

Have you guys gotten anything back from the Govs people yet?
Sent from my Verizon Wireless BlackBerry

Confidential

10/3/2011

Current Districts

MARYLAND DRAFT 2011 PLAN SUMMARIES

CD	POP10_A	POP10	DEV.	Current	FED_DPFM	ST_DPFM	GOV06D%	GOV10D%	PRS04D%	PRS08D%	AA_A%	AA18_A%	NHAA%	NHAA18%	HISP%	HSE08D%	HSE10%
1	743067	744275	21538	100%	38.4%	35.6%	35.7%	34.3%	36.5%	40.3%	11.4%	11.0%	11.4%	11.1%	3.5%	50.1%	42.7%
2	703824	700893	-17705	100%	57.9%	55.1%	54.2%	52.8%	54.7%	60.7%	33.8%	31.3%	33.1%	30.7%	5.0%	74.3%	64.8%
3	716808	719856	-4721	100%	57.0%	53.3%	52.4%	52.9%	54.3%	59.7%	20.0%	18.6%	20.0%	18.7%	6.8%	69.6%	61.9%
4	715671	714316	-5858	100%	82.5%	79.8%	75.8%	82.3%	79.1%	85.8%	56.6%	56.3%	55.7%	55.5%	14.2%	87.1%	82.6%
5	758464	767369	46935	100%	62.1%	61.8%	57.6%	63.3%	58.0%	66.2%	37.3%	36.1%	36.7%	35.8%	7.9%	75.4%	64.0%
6	731718	738943	10189	100%	37.4%	35.9%	35.9%	34.5%	34.2%	40.5%	5.9%	5.5%	6.4%	6.4%	4.2%	39.8%	34.1%
7	664091	659776	-57438	100%	76.8%	72.1%	67.5%	72.3%	73.5%	79.8%	56.4%	55.4%	55.7%	54.6%	3.5%	81.1%	75.9%
8	728588	728124	7059	100%	71.9%	67.1%	66.0%	70.8%	69.2%	74.5%	16.9%	16.6%	16.3%	16.1%	20.0%	77.2%	73.5%

Commission Plan

CD	POP10_A	POP10	DEV.	Current	FED_DPFM	ST_DPFM	GOV06D%	GOV10D%	PRS04D%	PRS08D%	AA_A%	AA18_A%	NHAA%	NHAA18%	HISP%	HSE08D%	HSE10%
1	721529	722661	0	84.4	37.0%	34.3%	34.7%	32.6%	35.0%	38.8%	11.4%	11.0%	11.4%	11.03%	3.3%	48.3%	40.06%
2	721529	723456	0	80.2	58.4%	55.3%	54.2%	53.6%	55.1%	61.5%	32.0%	29.5%	31.6%	29.34%	5.5%	73.9%	64.76%
3	721528	720067	-1	68.0	58.6%	54.8%	54.0%	54.5%	56.0%	61.2%	21.1%	19.5%	20.6%	19.10%	7.7%	70.2%	62.59%
4	721529	720068	0	57.6	74.7%	72.8%	66.8%	71.2%	71.3%	77.7%	54.6%	54.5%	53.8%	53.71%	13.6%	81.5%	74.83%
5	721529	720472	0	96.3	61.8%	61.5%	57.5%	63.0%	57.7%	65.9%	37.0%	35.8%	36.4%	35.31%	7.2%	75.2%	63.60%
6	721529	728453	0	50.6	53.0%	49.8%	49.3%	51.0%	49.3%	56.6%	12.0%	11.2%	12.3%	11.76%	11.2%	57.1%	51.32%
7	721529	716862	0	84.5	74.2%	69.5%	64.7%	68.4%	70.9%	77.2%	55.7%	54.5%	54.9%	53.75%	3.1%	78.9%	72.52%
8	721529	721513	0	57.4	60.0%	56.8%	56.1%	58.0%	57.7%	62.5%	11.7%	11.6%	11.3%	11.29%	13.5%	63.7%	60.27%

finalist for the Los Angeles Times Book Prize in history. My most recent book, *The Case for Impeachment* was an independent bookstore best seller, and a bestseller in several academic categories on Amazon.com.

I have worked as a consultant or expert witness for both plaintiffs and defendants in more than eighty redistricting, voting and civil rights cases. These include several cases in the state of Maryland. In the U.S. Supreme Court case, *League of United Latin Am. Citizens (LULAC) v. Perry*, 548 U.S. 399 (2006), the majority opinion written by Justice Kennedy authoritatively cited my statistical work. I have testified several times for plaintiffs and defendants on the issues of intentional discrimination in the adoption of state redistricting plans and other state laws affecting voter registration and turnout. A three-judge panel in litigation challenging the 2011 state of Illinois redistricting plan also cited my work on behalf of defendants in support of the panel's *rejection* of plaintiffs' claim that the plan intentionally discriminated against minority voters in *Committee for a Fair and Balanced Map v. Illinois State Board of Elections*, 2011 U.S. Dist. Lexis 117656 (N.D. Ill. Oct. 12, 2011). I testified on intentional discrimination in the landmark case of *North Carolina State Conference of the NAACP v. McCrory, et al.*, in which a unanimous panel of the Fourth Circuit affirmed my finding of intentional racial discrimination on the part of the state: 831 F.3d 204 (4th Cir. 2016). I was also the plaintiffs' expert on partisan gerrymandering in the case of *Vieth v. Jubelirer* that was ultimately decided by the U.S. Supreme Court. 51 U.S. 267 (2004).

III. SUMMARY OF OPINIONS

* After examining the reports of plaintiffs' experts, I conclude that these reports establish only what is already the obvious: that the 2011 Maryland congressional redistricting plan improved Democratic prospects in Maryland's Congressional District 6 as compared to the prior redistricting plan.

* Even taken fully at face value, the reports of plaintiffs' experts fail to establish that Maryland's congressional plan is a partisan gerrymander that unfairly burdens voters inclined to vote for Republican candidates. The reports consider *only* changes made by the plan in CD6. Yet scholarly work in the field, including Dr. McDonald's own published work and expert reports, demonstrate that a partisan gerrymander, as that term is understood in the social science literature, must be evaluated through the analysis of the *entire* plan.

* Scrutiny of Maryland's 2011 congressional plan through multiple modes of analysis demonstrates that the plan is *not* a partisan gerrymander.

* Maryland's 2011 redistricting plan established a community of interest in CD6, according to methodology applied by Dr. Morrison in *Fletcher v. Lamone*.

* The analysis of the intent behind the 2011 congressional plan in the reports of plaintiffs' experts is fundamentally flawed conceptually. The analysis fails to follow standard historical methodology or the framework for intent analysis established by the U.S. Supreme Court in the *Arlington Heights* case.

* The analysis of intent also fails to consider four plausible alternative explanations for the crafting of the plan that are unrelated to an intent to retaliate against Republican-leaning voters for their political views, voting decisions, or party affiliation.

* The reports of plaintiffs' experts contain serious errors and omissions and demonstrate a lack of knowledge of circumstances in Maryland essential to the inquiry.

Before examining other issues raised in plaintiffs' expert reports, I first address the critical question of whether Maryland's 2011 congressional plan constitutes an invidious partisan gerrymander that unfairly burdens Republican-leaning voters.

IV. MARYLAND'S 2011 REDISTRICTING PLAN IS NOT A PARTISAN GERRYMANDER

A. Deficiency of Plaintiffs' Analysis

Both the Morrison Report and the McDonald Report examine only one of the eight congressional districts in Maryland's 2011 plan, CD6. Such a limited study cannot establish whether a redistricting plan represents an invidious partisan gerrymander. The scholarship on this issue makes it clear that the possible existence of a partisan gerrymander must be assessed by examining the plan as a whole.

A redistricting plan is an interactive system, where every district in the plan affects every other district. This is a principle so well-recognized that one of plaintiffs' experts, Dr. McDonald, has espoused it several times himself. The other of plaintiffs' experts, Dr. Morrison, acknowledges that the proper inquiry is statewide but then neglects to address statewide factors in his report in *this* litigation. In his testimony in *Backus v. South Carolina*, plaintiffs' expert Dr. McDonald affirms the principle that districts interact with one another in a plan and that redistricting experts cannot analyze any single district in isolation.

"Well, I don't know if it's a scientific principle, but among people who do redistricting we call it a ripple effect. So one district, if you change one district it's going to affect all of the neighboring districts, and then that in turn, it's like a row of dominoes, can spread entirely across the state. And so *you really can't look at one district in isolation* because it can be affected by changes to other districts."[1]

Much the same point was asserted in his report on partisan gerrymandering in the litigation of Texas' post-2010 redistricting plans, where Dr. McDonald made clear the need to examine all the districts in assessing partisan gerrymandering. Dr. McDonald first observed that "[a] commonly used method to determine the potential political consequences of a redistricting plan is to aggregate statewide election returns *into proposed districts*. The resulting statistics can be used to evaluate if a redistricting plan is a partisan gerrymander. The methodology clearly illustrates the burdens that partisan gerrymanders place upon voters and political parties."[2] Dr. McDonald then

---

[1] McDonald Test. at 55:22-56:4 (emphasis added), *Backus v. South Carolina*, No. 3:11-3120 (D.S.C. March 4, 2012), ECF No. 207.

[2] Designation of Expert Witnesses, Ex. A, McDonald Expert Report at 1, *Perez v. Perry*, No. 5:11-00360 (W.D.

examined three adopted Texas redistricting plans for congressional districts, state house districts and state senate districts, and examined all the districts in each plan before concluding that these plans were partisan gerrymanders. He said, "the adopted redistricting plans are Republican gerrymanders, designed with a purpose to dictate electoral outcomes by strategically grouping voters within districts based on their political orientation and that the representational rights of Democratic voters and the Democratic Party are thereby disfavored on the basis of their political views."[3]

Similarly, Dr. McDonald's scholarly work in partisan gerrymandering litigation also establishes the necessity of examining the complete redistricting plan to assess gerrymandering. This body of work includes his 2015 Social Science Research Network (SSRN) paper; his 2012 article in the *Case Western Reserve Law Review*; and his 2013 article in the *University of Richmond Law Review*.[4] Likewise, the scholarly sources cited in plaintiffs' second amended complaint examine the issue of partisan gerrymandering through a consideration of the entire plan, not just one district.[5]

In his deposition in the South Carolina case of *Backus v. South Carolina*, Dr. McDonald was asked: "is it possible to, if you have a statewide plan with – for instance, in the House map there are 124 districts. Is it possible to draw each one of those 124 districts individually without considering their impact on the surrounding districts?" Dr. McDonald answered simply, "No."[6]

Dr. Morrison, the plaintiffs' other expert, specifically frames his inquiry as pertaining generally to Republicans in Maryland, not just Republicans in CD6:

"I have also been asked to determine whether there is objective demographic evidence supporting the conclusion that the Maryland General Assembly specifically intended to burden *the representational rights of Maryland Republicans* because of how they had voted in the past and the political party with which they had affiliated."[7]

Yet the substance of the Morrison Report considers only CD6 and not the impact of the entirety of the 2011 congressional redistricting plan on "Maryland Republicans."

Likewise, plaintiffs' Second Amended Complaint refers frequently to the plan as a whole, and its scope is not limited to CD6. For example:

Tex. Aug. 8, 2011), ECF No. 130-2 (emphasis added).

[3] *Ibid.*, at 5.

[4] Micah Altman & Michael P. McDonald, "Redistricting Principles for the 21st Century," 62 *Case Western Law Review* 1179 (2012); Micah Altman & Michael P. McDonald, "A Half-Century of Virginia Redistricting Battles: Shifting from Rural Malapportionment to Voting Rights and Participation," 47 *University of Richmond Law Review* 771 (2013); and Micah Altman, Brian Amos, Michael P. McDonald, & Daniel R. Smith, "Revealing Preferences: Why Gerrymanders are Hard to Prove and What to do About It," *SSRN* (March 22, 2015), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2583528.

[5] Samuel S. H. Wang, "Three Tests for the Practical Evaluation of Partisan Gerrymandering," 68 *Stanford Law Review* 1263 (2016); Nicholas O. Stephanopoulos & Eric M. McGhee, "Partisan Gerrymandering and the Efficiency Gap," 82 University of Chicago Law Review 831 (2015).

[6] McDonald Dep. at 53:7-53:14, *Backus v. South Carolina*, No. 3:11-03120 (D.S.C. Feb. 27, 2012), ECF No. 158.

[7] Opening Expert Report of Dr. Peter A. Morrison (hereinafter Morrison Report) at 4 (emphasis added).

"The Plan is widely regarded as one of the worst partisan gerrymanders in American history." (p. 4)

"The crux of every partisan gerrymander is the dominant party's effort to dilute the effectiveness of the votes in favor of the disfavored party. ... This end is achieved by drawing district lines so that the dominant party wins a large number of seats by narrow margins and the disfavored party wins a small number of seats by wide margins." (pp. 9-10)

"As a result of both increasing partisanship and more sophisticated voter data collection and analysis, map-drawers in recent decades have been able to create redistricting plans in ways that crack and pack with unprecedented efficiency and accuracy." (pp. 10-11)

"The 1st District covers Maryland's Eastern Shore and stretches across a portion of the northern border of the State. It is the State's 'packed' Republican district." (p. 19)

Pages 19-29 of the complaint include allegations about every one of the 8 congressional districts in Maryland's 2011 redistricting plan, not limited to CD6. Yet neither the Morrison nor the McDonald Report provides any detailed analysis of the overall plan, showing that it unfairly packs and cracks Republican voters. Instead their analyses are limited only to CD6.

B. Multiple Analyses Demonstrate That Maryland's 2011 Congressional Plan is Not a Partisan Gerrymander

1. Dr. McDonald's Own Methodology for Detecting Partisan Gerrymanders Demonstrates that Maryland's 2011 Congressional Plan is not a Partisan Gerrymander

In his Texas reports, Dr. McDonald establishes a methodology for assessing whether a redistricting plan represents an unfair partisan gerrymander. He references my work in *Vieth v. Jubelirer* as a foundation for this methodology.[8] According to Dr. McDonald's prior testimony, the correct methodology calls for the analyst to take the following steps:

1) Calculate statewide election returns within districts. This requires the reaggregation of statewide results into each of the individual districts of a plan.
2) Calculate the average share of "two-party" vote across districts.
3) Compare the relationship between seats to votes at various average votes for the two major parties across the districts.[9]

Using this methodology, Dr. McDonald found that the adopted Texas congressional, state senate, and state house plans were partisan gerrymanders disfavoring Democrats, the minority party in the Texas legislature.[10] However, as shown below, this same methodology yields a contrary finding for Maryland's 2011 congressional redistricting plan.

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[8] McDonald Expert Report at 2, *Perez v. Perry*, No. 5:11-00360 (W.D. Tex. Aug. 8, 2011), ECF No. 130-2.
[9] *Ibid.* at 3-5.
[10] Designation of Expert Witnesses, Ex. B, McDonald Apx. at 3, 7, 9, *Perez v. Perry*, No. 5:11-00360 (W.D. Tex. Aug. 8, 2011), ECF No. 130-3.

Tables 1 and 2 below set forth the results of applying to Maryland's 2011 congressional redistricting plan the same methodology that Dr. McDonald endorsed in the Texas case of *Perez v. Perry*. Table 1 calculates the average share of the "two-party" vote for statewide elections for each of the districts in the 2011 congressional plan from 2012 to 2016.[11] Table 2 examines the relationship between Republican votes and seats for the Maryland plan and compares these results to the results found for Texas by Dr. McDonald.

The results reported in Table 2 indicate that, in contrast to Dr. McDonald's Texas findings, the 2011 Maryland congressional redistricting plan is highly responsive to a hypothetical Republican majority. If Republicans were to achieve a bare majority of 51 percent of the vote, according to Dr. McDonald's methodology they would win 63 percent of the seats. If they won a 54 percent vote majority, Republicans would win 75 percent of the seats. In 2010, Democrats won 75 percent of the seats in Maryland's congressional delegation, but they did so with a majority vote of 64.3 percent across districts, more than 10 percentage points above the 54 percent that Republicans would have needed statewide to win that same percentage of seats. At 54 percent of the vote, under Maryland's 2011 congressional redistricting plan, Republicans would win all six of the districts that are not majority-African American voting rights districts (CD4 and CD7). By contrast, if Democrats won 54 percent of the Texas vote they would win only 49 percent of seats under the state's adopted congressional plan, 33 percent under its adopted state senate plan, and 41 percent under its adopted state house plan. Thus, under Maryland's congressional plan, Democrats are generally at a statewide *disadvantage* in converting their votes to congressional house seats, unlike the Republicans in Texas who established an anti-majoritarian statewide advantage.

[11] The Maryland State Board of Elections reports only election night results (e.g., the votes cast on Election Day) by precinct and congressional district. Through a special tabulation from the Board of Elections I also obtained the early votes cast by congressional district. Only the relatively small number of absentee votes and provisional votes (fewer than 10 percent of votes cast) are not available by congressional district.

TABLE 1
REPUBLICAN PERCENTAGE OF TWO-PARTY VOTE, STATEWIDE ELECTIONS, AGGREGATED TO DISTRICTS IN THE 2011 ADOPTED CONGRESSIONAL PLAN

CD	2012 President	2012 US Senate	2014 Governor	2014 Comptr.	2014 Attorney General	2016 President	2016 US Senate	Mean All Elections
1	62.2	56.5	78.6	53.4	66.0	65.8	64.9	63.9
2	36.1	28.2	55.9	34.3	41.1	38.3	37.9	38.8
3	38.3	31.3	54.7	36.3	41.8	34.7	36.7	39.1
4	21.3	19.0	34.0	25.6	28.2	20.6	22.2	24.4
5	33.1	28.5	46.2	37.3	38.9	33.8	33.8	35.9
6	44.6	42.4	58.4	47.1	50.6	43.8	42.5	47.1
7	23.0	20.3	37.2	24.6	28.7	21.7	25.2	25.8
8	37.6	33.7	48.9	37.8	40.5	33.4	34.5	38.1
	37.0	32.5	51.7	37.0	42.0	36.5	37.2	39.1

TABLE 2
VOTES TO SEATS RATIOS 50% TO 55% FROM MINORITY PARTY IN LEGISLATURE MARYLAND 2011 CONGRESSIONAL PLAN COMPARED TO PLANS ANALYZED BY DR. MCDONALD IN TEXAS

% of Vote By Minority Party In Legislature	Maryland Adopted 2011 Cong. Plan	Texas Adopted 2011 Cong. Plan	Texas Adopted 2011 State. Senate Plan	Texas Adopted 2011 State House
Minority Party 50%	38%	32%	33%	38%
Minority Party 51%	63%	32%	33%	38%
Minority Party 52%	63%	39%	33%	38%
Minority Party 53%	63%	40%	33%	40%
Minority Party 54%	75%	49%	33%	41%
Minority Party 55%	75%	50%	40%	42%
Source: Table 1, McDonald, *Perez* Report.				

2. Efficiency Gap Analysis Shows That the Maryland's 2011 Congressional Plan Favors Republicans

The analysis of the so-called "efficiency gap" is a methodology for detecting a partisan gerrymander developed by Nicholas Stephanopoulos, Professor at the University of Chicago Law School, and Eric McGhee, Research Fellow at the Public Policy Institute of California. It is explained and illustrated in their 2015 article in the *University of Chicago Law Review*, cited in plaintiffs' complaint and referenced above. As explained by the authors, their efficiency-gap measure accounts *for both the packing and cracking of voters* in any redistricting plan: "The efficiency gap," they write, "essentially aggregates all of a district plan's cracking and packing into a single tidy number."[12] The district court in the Wisconsin gerrymandering litigation relied heavily on their efficiency gap measure in denying defendants' motion for summary judgment in a case alleging that the plan for State Assembly districts represented a partisan gerrymander that unfairly disadvantaged Democrats.[13]

The efficiency gap, Stephanopoulos and McGhee indicate, "represents the difference between the parties' respective wasted votes in an election."[14] They define a wasted vote as a vote that "is cast (1) for a losing candidate, or (2) for a winning candidate but in excess of what she needed to prevail."[15] Wasted votes for a losing candidate, they state, are "a result of the time-honored gerrymandering technique of 'cracking.'"[16] Wasted votes in excess of electoral majorities result from "the equally age-old mechanism of 'packing.'"[17]

The efficiency gap is relatively simple to compute:

1) Sum for each party the number of votes cast for losing candidates in each district.
2) Sum for each party the number of votes cast for winning candidates in excess of 50%.
3) Add together these two sums to obtain the total number of wasted votes for each party.
4) Subtract the total number of wasted votes for the party controlling the redistricting from the total number of wasted votes for the second party.
5) A positive result indicates that the plan disadvantages the second party, e.g., that it has more wasted votes. A negative result indicates that the plan disadvantages the redistricting party, i.e., that it has more wasted votes.
6) Divide the result by the total number of votes cast to obtain the net percentage of wasted votes for the disadvantaged party.
7) This final percentage measure represents the efficiency gap.

Table 3 applies the efficiency gap analysis to Maryland's 2011 plan using the 2012 general election results. This first post-redistricting election is the most critical election in assessing any redistricting plan, for at least two important reasons. First, this election establishes the congressional incumbencies for subsequent elections. It is well established that incumbents have

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[12] Stephanopoulos & McGhee at 833.
[13] *Whitford v. Nichol*, 180 F. Supp. 3d 583 (W.D.Wis. 2016).
[14] Stephanopoulos & McGhee at 834.
[15] *Ibid.*
[16] *Id.*
[17] *Id.*

a significant electoral advantage over challengers. As plaintiffs' expert Dr. McDonald has noted, "Much electoral competition scholarship focuses on the advantages of incumbents in election to the House of Representatives."[18] Second, circumstances change over time, including demographic and political changes, making outcomes in later elections more difficult to predict at the time of the redistricting. Political scientist Nicholas R. Seabrook explains: "A number of factors can combine to dramatically alter the underlying distribution of voters that had formed the basis of a gerrymander." He cites "generational replacement," electoral realignments, "national electoral swings and turnout variations," changes "between presidential elections and midterm years," and "residential mobility." Thus, "All else being equal, the effectiveness of a partisan gerrymander is expected to decline as the alignment of voters moves further away from that on which the redistricting plan was based."[19]

The results reported in Table 3 indicate that for the 2012 congressional elections in Maryland, the Democrats had 222,259 more wasted votes than Republicans. As also indicated in Table 3, this result translates into *an efficiency gap of 8.0 percent disfavoring Democrats*. In sharp contrast, in Wisconsin, the court cited a report by plaintiffs' expert finding that the Republicans controlling the State Assembly redistricting had created a plan with a *13 percent efficiency gap favoring Republicans*.[20] I am not suggesting that the Democrats in 2011 deliberately gerrymandered congressional districts to produce more Democratic wasted votes, but rather that this is a consequence of other factors, such as the natural distribution of partisans in the state and the creation of two voting rights districts. These districts – CD4 and C7 – are overwhelmingly packed with Democrats, with the winning Democrat in 2012 garnering about 79 percent of the vote in each district.[21] The large efficiency gap in favor of Republicans in Maryland is consistent with Stephanopoulos and McGhee's conclusion; Maryland is not identified as a partisan gerrymander under their applicable threshold test.[22]

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[18] Michael P. McDonald and John Samples, "The Marketplace of Democracy: Normative and Empirical Issues," in *The Marketplace of Democracy: Electoral Competition and American Politics* 13 (McDonald and Samples, eds., 2006).

[19] Nicholas R. Seabrook, *Constraints on Partisan Gerrymandering in U.S. Politics* 62 (2017).

[20] *Whitford v. Nichol*, 180 F. Supp. 3d at 590. In the Wisconsin case, one plaintiffs' expert found that the efficiency gap favoring Republicans was 13%. Another plaintiffs' expert, using a more elaborate district-by-district analysis, found that the overall efficiency gap favoring Republicans was 12%. *Ibid.*

[21] Maryland State Board of Elections, 2012 General Election, http://www.elections.state.md.us/elections/2012/results/general/gen_results_2012_4_008X.html.

[22] Stephanopoulos & McGhee at 890.

TABLE 3
EFFICIENCY GAP REPUBLICANS VS. DEMOCRATS 2012 CONGRESSIONAL ELECTIONS MARYLAND

Total Votes	"Wasted" Democratic Votes	"Wasted" Republican Votes	Difference in "Wasted Votes"
2,482,687	985,261	763,002	-222,259 Democrats Disadvantaged
Efficiency Gap*	222,259/2,482,687 = 8.0% Disadvantaging Democrats		
* Difference in "Wasted" Votes Divided by Total Votes. Party With More "Wasted" Votes is Disadvantaged. See, Nicholas O. Stephanopoulos & Eric M. McGhee, "Partisan Gerrymandering and the Efficiency Gap," *Chicago Law Review*, 81 (2015), pp. 831-900.			

V. THE MORRISON REPORT IS FUNDAMENTALLY FLAWED BY CONFIRMATION BIAS

Dr. Morrison has produced a result-driven report that exhibits the flaw of confirmation bias, defined as the marshalling of evidence to support a pre-conceived conclusion rather than the conducting of an open-ended inquiry with no fixed outcome. As explained by Raymond S. Nickerson in his article in the *Review of General Psychology*, confirmation bias occurs when "one selectively gathers, or gives undue weight to, evidence that supports one's position while neglecting to gather, or discounting, evidence that would tell against it."[23] He further elaborates that, "People may treat evidence in a biased way when they are motivated by the desire to defend beliefs that they wish to maintain."[24]

The confirmation bias of the Morrison Report is evident in the contradictory ways in which Dr. Morrison approaches analysis of communities of interest in his declaration in *Fletcher v. Lamone* as compared to the report for this litigation. It is also evident in his failure to frame his intent inquiry in an open-ended form by assessing whether the evidence *supports or refutes* the intention of legislators to burden Republicans. Rather, he considers whether he can muster evidence in support of plaintiffs' pre-set claim of intentional discrimination.

As Dr. Morrison puts it, "I have also been asked to determine whether there is objective demographic evidence *supporting the conclusion* that the Maryland General Assembly specifically intended to burden the representational rights of Maryland Republicans because of how they had voted in the past and the political party with which they had affiliated."[25]

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[23] Raymond S. Nickerson, "Confirmation Bias: A Ubiquitous Phenomenon in Many Guises," 2 *Review of General Psychology* 175-176 (1998).
[24] *Ibid.*
[25] Morrison Report at 4 (emphasis added).

Dr. Morrison's claim that legislative intent can be inferred from "objective demographic evidence" is also illustrative of confirmation bias. No evidence, whether demographic or otherwise, simply leaps out and speaks for itself. Evidence must be culled, selected, and interpreted, especially as it relates to a complex causal question such as the intent of a legislative body. In addition, Morrison's report is not limited to demographic material, but also attempts to provide a historical analysis of the redistricting process in Maryland primarily based on non-demographic, documentary evidence.

It is also telling that in pursuing this historical inquiry to assess intent, Morrison goes well beyond his role as a demographer. In his statement of qualifications Dr. Morrison cites no expertise, training or publications related to the historical analysis of intent: "My principal expertise centers on applications of demographic analysis in tracking socioeconomic trends and envisioning their consequences for public policy. In particular, I specialize in performing demographic analysis pertaining to the *effects* of Congressional and other redistricting plans."[26] At least one court has previously cited Dr. Morrison for attempting to provide analyses and opinions beyond his demographic expertise.[27]

VI. DR. MORRISON'S DECLARATION IN *FLETCHER V. LAMONE* REFUTES HIS REPORT IN THIS LITIGATION.

Only Dr. Morrison's report addresses the key question of whether the 2011 congressional redistricting plan establishes a community of interest in CD6. Dr. Morrison concludes that the 2011 Congressional Plan "dismembered existing communities of interest" by "switch[ing] out" "small-town native-born Marylanders and replac[ing] them with outsiders."[28] But Dr. Morrison's 2011 declaration submitted on behalf on plaintiffs' in *Fletcher v. Lamone*, effectively proves, by the very criteria he deems sufficient, that adopted CD6 represents a community of interest. In his *Fletcher* declaration, Dr. Morrison opines that CD5 in plaintiffs' alternative plan represents a community of interest. As the enclosed map indicates, this district runs nearly the length of the state from Charles County in southern Maryland to Baltimore County in the north (see map below). He reaches this conclusion solely on the basis of alleged commuter flows along this long stretch of Maryland territory:

> "The counties between Baltimore and Washington D.C. comprise a regional corridor that is functionally integrated by regionwide transportation linkages facilitating extensive daily flows of commuting. The commuters between suburban residences and workplaces throughout this regional corridor constitute a natural community of interest defined by the common needs and the shared concerns of workers who reside within the vast commuter shed between Baltimore and

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[26] Morrison Report at 1.

[27] *Milwaukee Branch of NAACP v. Walker*, 851 N.W.2d 262, 291 (2014) (holding circuit court did not err in finding that Dr. Morrison "did not 'possess sufficient training or experience to prepare or to offer reliable expert testimony as to election procedures generally nor, specifically the proportion of persons eligible to vote in Wisconsin who lack a Photo ID required by Act 23.'").

[28] Morrison Report at 9, 75.

> Washington D.C. Plaintiffs' Proposed Congressional District # 5 *encompasses this natural community of shared interest*."[29]

In reaching an opposite conclusion regarding CD6 in Maryland's 2011 redistricting plan, Dr. Morrison does not analyze or even cite any of the factors that he examined in his *Fletcher v. Lamone* declaration. Conversely, in his *Fletcher* declaration regarding CD5, Dr. Morrison does not reference the cultural or educational institutions, media markets, newspapers, urban versus rural residence, socio-economic factors, foreign versus native birth, etc. that are the basis for his conclusions regarding CD6. Rather, in the *Fletcher* case, Dr. Morrison contended that patterns of transportation and commuting *are sufficient*, in and of themselves, to establish a congressional district as representing a community of interest.

According to Dr. Morrison's *sufficient standard* of transportation and commuting, CD6 represents far more of a community of interest than the CD5 that Dr. Morrison defends in his *Fletcher* declaration. The communities included in the adopted CD6 are united by the I-270 Corridor which establishes a community of interest as affirmed through a recent study by the Maryland State Department of Transportation, State Highway Administration:

> "The I-270/US 15 Corridor serves local and long distance trips between the Washington, DC metropolitan area, central and western Maryland, and beyond. Known as the "Technology Corridor", this area is home to many high-tech industries and research facilities as well as commercial, cultural and recreational activities. ... The I-270/US 15 Corridor is one of the most traveled north-south transportation corridors in Maryland. The Corridor provides an essential connection between the Washington, DC metropolitan area and central and western Maryland, and is critical from both a personal transport and goods transport perspective."[30]

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[29] Dr. Peter Morrison Decl. and Rebuttal Report at 1, *Fletcher v. Lamone*, No. 11-3220, (D.Md. Dec. 16, 2011), ECF No. 49-3 (emphasis added).

[30] Maryland State Department of Transportation, State Highway Administration, "Purpose and Need," pp. I-2, 6, https://appsods.maryland.gov/WebProjectLifeCycle/FR192_11/HTDOCS/Documents/Purpose_and_Need/Purpose%20and%20Need%20(from%20DEIS).pdf.

FLH-PAC
Maryland Districts Plan
July 17, 2011

The State Highway Administration study goes on to elaborate upon other critical connections along the I-270 Corridor that even extend into Allegany and Garrett counties:

> "The Corridor also serves a major commuter population that works in the District of Columbia, southern Montgomery County, and Frederick County, and provides access to employment opportunities within the Corridor itself. The majority of these commuters travel from the City of Frederick or upper Montgomery County into central and lower Montgomery County (i.e. Bethesda, Rockville, and Gaithersburg) and Washington, DC. In addition, the Corridor provides the primary travel path from the population centers of the Washington metropolitan area to recreational sites located in western Maryland and to historic resources within/near the project area, such as the Monocacy National Battlefield and the C&O Canal National Historical Park."[31]

Consistent with this analysis, the Maryland State Suburban Alliance has termed the I-270 Corridor "the state's number-one job-creation corridor."[32]

In his *Fletcher* Declaration, Dr. Morrison cites no such studies in support of his contention that there is a transportation corridor comparable to I-270 that links together Charles, Prince George's, Howard, and Baltimore Counties in the *Fletcher* plaintiffs' CD5. He relies solely on his own construction of commuter flow data, which draws on out-of-date information from 2000 and 2003.

Analysis of commuter flow data additionally demonstrates that the commuting linkages existing in CD6 are substantially stronger than those Dr. Morrison found to establish a community of interest in the *Fletcher* plaintiffs' proposed CD5. Table 4 below reports the location of jobs, and corresponding commuter flow, from the District of Columbia northwest through the counties included in CD6 in the 2011 congressional plan. It compares these results to the corresponding commuter flow data from Baltimore City south through the counties included in the proposed CD5 defended by Dr. Morrison in his *Fletcher* declaration. As indicated in Table 4, CD6 establishes a much more united community of interest by Dr. Morrison's standard than did the CD5 analyzed in his *Fletcher* declaration. Only 16.4 percent of jobs are outside the commuting region of DC through counties of CD6, compared to a *more than double* 35.3 percent for the commuting regions from Baltimore City through the counties included in the *Fletcher* plaintiffs' CD5. In other words, people living in CD6 spend more of their time and work life in the same area, and, to the extent Dr. Morrison has previously indicated that such patterns establish a community of interest, the residents of CD6 exhibit this characteristic more strongly than the district he analyzed in *Fletcher*.

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[31] *Ibid.* at I-7.

[32] Suburban Maryland Transportation Alliance, "I-270," http://www.mdtransportation.org/category/i-270-corridor/.

TABLE 4
LOCATION OF JOBS, CD6 IN ADOPTED 2011 CONGRESSIONAL PLAN COMPARED TO CD5 IN DR. MORRISON'S *FLETCHER* DECLARATION

ADOPTED MARYLAND CONGRESSIONAL PLAN CD6 LOCATION OF JOBS FOR COUNTY RESIDENTS								
County	Mont.	Frederick	Wash.	DC	Alleg.	Garrett	Other	% Other
Montgomery	298,590	4,854	299	107,123	33	3	91,406	**18.2%**
Frederick	26,131	68,885	1,968	4,088	9	0	18,381	**15.4%**
Washington	3,462	10,848	48,261	788	132	0	6,350	**9.1%**
Allegany	290	109	588	35	25,541	544	3,198	**10.6%**
Garrett	45	47	78	13	1,714	10,856	1,342	**9.5%**
ALL COUNTIES	328,518	84,743	51,194	112,047	27,429	11,403	120,677	**16.4%.**
PROPOSED PLAINTIFFS' PLAN, *FLETCHER V. LAMONE*, CD5 LOCATION OF JOBS FOR COUNTY RESIDENTS								
County	Charles	Prince George's	Howard	Balt.		Balt. City	Other	% Other
Charles	27,746	14,641	457	168		315	31,081	**41.8%**
Prince George's	3,936	175,443	8,812	2,912		6,700	245,160	**55.3%**
Howard	62	13,652	58,824	11,922		15,907	47,142	**32.0%**
Baltimore	72	5,201	23,385	203,234		117,027	54,042	**13.4%**
MEAN % OTHER	31,816	208,937	91,478	218,236		139,949	377,425	**35.3%**
Source: 2010 American Community Survey, 5-Year Estimates								

TABLE 5
LOCATION OF JOBS, CD6 IN ADOPTED 2011 CONGRESSIONAL PLAN COMPARED TO CD5 IN DR. MORRISON'S *FLETCHER* DECLARATION

ADOPTED MARYLAND CONGRESSIONAL PLAN CD6 LOCATION OF JOBS OUTSIDE COUNTY OF RESIDENCE								
County	Mont.	Frederick	Wash.	DC	Alleg.	Garrett	Other	% Other
Montgomery		4,854	299	107,123	33	3	91,406	**44.9%**
Frederick	26,131		1,968	4,088	9	0	18,381	**36.3%**
Washington	3,462	10,848		788	132	0	6,350	**29.6%**
Allegany	290	109	588	35		544	3,198	**67.3%**
Garrett	45	47	78	13	1,714		1,342	**41.4%**
ALL COUNTIES	29,928	15,858	2,933	112,047	1,888	547	120,667	**42.5%**
PROPOSED PLAINTIFFS' PLAN, *FLETCHER V. LAMONE*, CD5 LOCATION OF JOBS OUTSIDE COUNTY OF RESIDENCE								
County	Charles	Prince George's	Howard	Balt.		Balt. City	Other	% Other
Charles		14,641	457	168		315	31,081	**66.6%**
Prince George's	3,936		8,812	2,912		6,700	245,160	**91.6%**
Howard	62	13,652		11,922		15,907	47,142	**53.2%**
Baltimore	72	5,201	23,385			117,027	54,042	**27.5%**
MEAN % OTHER	4,070	33,494	32,654	15,002		139,949	377,425	**62.6%**
Source: 2010 American Community Survey, 5-Year Estimates								

Table 5 provides an additional level of analysis that looks only at jobs outside the county of residence. The results reported in Table 5 indicate that for CD6 a minority of 42.5 percent of non-residential jobs are outside of CD6 and DC, whereas for the *Fletcher* plaintiffs' CD5, a majority of 62.6 percent of non-residential jobs are outside the counties of CD5 and Baltimore City. More residents of CD6 live and work in the same area as each other.

Montgomery County and DC are also connected to western Maryland not just through roadways, but also through the MARC rail line that runs from DC to Martinsburg, West Virginia as indicated in the map below. The map also indicates that there is no comparable rail line that runs from Charles County through Howard County to Baltimore County and Baltimore City.

Dr. Morrison's attack on the idea of the I-270 counties comprising a community of interest is based in part on his assertion that the relevant measure is the number of each county's residents who commute to Washington, D.C. But as the state study cited above makes clear, the I-270 corridor significantly encompasses jobs and commuter flows within the Maryland counties, not just between these counties and DC. For example, Dr. Morrison's Table 2 on page 65 of his report indicates that only 3.4 percent of Frederick County workers hold jobs in DC. However, the Table fails to report that 26,131 Frederick County workers (21.9 percent) hold jobs in Montgomery County. Moreover, in his *Fletcher* Declaration, Dr. Morrison himself focused primarily on commuting within Maryland counties included in CD5, not on commuting into Baltimore City.

Dr. Morrison also claims that the creation of an I-270 based district was not a consideration at the time of the 2011 redistricting. He relies, however, not on contemporaneous evidence but on the post-hoc testimony some six years later from the depositions of Mr. Hawkins and Robert J. Garagiola. Dr. Morrison fails to note that at the time of the redistricting, then State Senator Garagiola said, "I think there's a lot more in common with northern and western Montgomery County and Frederick County and Washington County and even further west than there is with Harford or Baltimore County."[33]

In fact, the concept of a community of interest established by linkages through the I-270 corridor was a main point of emphasis in the presentation to the General Assembly made by the Governor's Advisory Redistricting Commission (GRAC) during the redistricting process.[34] Many citizens testifying in the public hearings held by GRAC in Frederick and Shady Grove in Montgomery County stressed the community of interest along the I-270 corridor. Witnesses also noted that the proposed north/south configuration of CD6 into Montgomery County established more of a community of interest than the previous configuration that included Baltimore, Carroll, Harford counties. The following are examples from the public hearing.

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[33] Heather Keela, "Proposed Congressional Redistricting Plan Has Local Republicans Crying Foul," *Herald-Mail.Com*, October 8, 2011, http://articles.herald-mail.com/2011-10-08/news/30259492_1_congressional-districts-state-legislative-districts-special-session.

[34] *GRAC*, "Recommended Congressional Plan," http://www.washingtonpost.com/wp-srv/politics/documents/redistricting_advisory_committee_100411.pdf.

MARYLAND AREA REGIONAL COMMUTER SERVICE*

- Source, *Legislative Handbook, Volume II, Government Services in Maryland*, p. 142, http://dls.state.md.us/data/polanasubare/polanasubare_natresenvntra/Volume-II-Chapter-9.pdfp.

- **Testimony of Bob Kresslein:**

I'd like to see you consider a couple of different factors. One is, sort of the communities of interest we have – Senator Brinkley indicated – you know – if you look at Carroll County and west, we have a lot of similarity, **but I would also posit that if you go south and east, you're going to find a** lot of things in common. If you look at historically, upper Montgomery County, look toward Frederick, for many, many years that area has picked up quite a lot of population. And if you look at transportation patterns, you'll see that – you know - -70 and 270 combined right here in Frederick County. And if you're on that road every day going to work you know there's an awful lot of people from Washington County, even into Pennsylvania and West Virginia and Virginia that get on that road and go on into Montgomery County to work or into Washington, D.C. metropolitan area.[35]

- **Testimony of Dan Rupli:**

There is no community of interest between Harford County and Garrett County. There is very little community of interest between Allegany and Carroll. ... There is no community of interest either in – or a shared media that reaches the district. We're a kind of patchwork, and I would like very much to see the district go into northern Montgomery County.[36]

- **Testimony of Don DeArmon (Former Democratic Nominee State Senate D3):**

So my sense is, having campaigned in those areas, that when you start there, that Carroll, and certainly, Baltimore and Harford Counties, their orientation is much more toward a Baltimore County or a Baltimore City direction. And Frederick is increasingly, and it's – as Bob Kresslein pointed out, we're heading southeast, and our orientation is toward Montgomery County.[37]

- **Testimony of Myrna Whitworth (Democratic Chair Frederick County):**

I also understand that you and this commission are looking at two factors, diversity and national natural and political boundaries or – and I strongly believe that if you look at those, you will find that our current configuration, as others here today have indicated, makes little sense. Historic – right now, Frederick is the gateway to Western Maryland. It's the largest population center, and among Frederick County residents are those people from Urbana, who very much look south. Frederick County, many of the people here look south, go down the 270 corridor and have businesses and jobs in the Greater Washington Metropolitan area. And so, to look at Frederick and west, as well as to look at Frederick south, gives a much more natural boundary to what the Sixth Congressional District should look like.[38]

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[35] GRAC, Public Hearing Tr. at MCM000021-22.
[36] *Ibid.* at MCM000026-27.
[37] *Id.* at 31.
[38] *Id.* at MCM000032-33.

- **Testimony of Andrew Duck (Former Democratic nominee CD6):**

Frederick and Washington counties have really become part of the Washington suburbs, and I think as such, the community of interest makes it more relevant for them to be lumped with Montgomery County than with people from Harford or Baltimore County. So I think, both in terms of making it viable for someone to reach the voters, and in terms of better representing the population, it would make more sense to re-orient the district to include more of Montgomery County and less and none of Harford and Baltimore and less of Carroll, as you put those communities in with the Baltimore County area that they are naturally a part of.[39]

- **Testimony of Retired Democratic Delegate Sue Hecht:**

It's my experience that Frederick County and the greater Hagerstown area, especially along the I-270 corridor, increasingly identifies itself with the exurbia of the Washington D.C., not Baltimore City and its suburbs. Even though Frederick is in the enviable position of sitting 50 miles as an apex of both Washington and Baltimore City triangle, the more new Western Maryland residents maintain close ties with Montgomery County and D.C. area, not as much with the Baltimore. ... We've heard about the thousands of commuters that come down I-270 and Route 15, coming through Frederick. They're most of the majority -- vast majority of those folks are going to jobs in the Washington Metropolitan Area, not Baltimore. We've heard about our mass transit links that go to Washington through the [MARC], not Baltimore. Frederick is part of the Greater Washington initiative and an affiliate of the Greater Washington Board of Trade. ...
We are not included in the similar Greater Baltimore initiative. ... Frederick is part of WASHCOG, or the Washington Council of Government.[40]

- **Testimony of Elizabeth Paul (Democratic Chair, Washington County):**

[Y]ou all heard that Montgomery County is part of our district and historically that region has had close ties to the Frederick area, as well as the western counties up here, and certainly more so than upper Baltimore and Harford County which were added in 2002.

Residents of the more populated parts of the sixth district are more aligned with Washington, D.C. suburbs by transportation routes such as I-270 and the MARC Commuter Trains, by employment in the D.C. Metro area and Northern Montgomery County as opposed to Baltimore suburbs or Harford County.[41]

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[39] *Id.* at MCM000037-38.
[40] *Id.* at MCM000050-51.
[41] *Id.* at MCM000071-72.

The final testimony that I present is from Steve Shapiro. This testimony is particularly significant because Mr. Shapiro was an original plaintiff in this litigation, although he has since withdrawn.

- **Testimony of Steve Shapiro:**

Ideally, Montgomery County, with its fairly large population, would have one district entirely within its borders and share about one half of a district with an adjoining part of the state. A reasonable option to do this would be to maybe take the western third of Montgomery County and pair it with Western Maryland, which, based on history and geography, would be a reasonable situation and one that existed several decades ago. Keeping the Montgomery section about equal in size to the Western Maryland section I think would keep it from being overly dominated by the Montgomery section and, thus, would be fair to the Western Maryland residents, as well as to the Montgomery County residents.[42]

The idea of a district representing the growing communities along the I-270 corridor was also discussed in the press at the time of the redistricting process, which culminated in the 2012 referendum on the congressional plan. "'Congressional Districts 6 and 8 are drawn to reflect the North-South connections between Montgomery County, the I-270 Corridor, and western portions of the State,' the plan outline says," reported the *Herald Mail*.[43] "Maryland's congressional districts are being redrawn to conform with population changes in the 2010 census. Supporters of the changes say the new map reflects a demographic shift along the Interstate 270 corridor," reported the Associated Press.[44] "The MARC's Brunswick line, which runs from Washington's Union Station to Martinsburg, W.Va., has seen a 34 percent increase in train ridership in the past decade, and there are roughly 10,000 more cars per day on Interstate 270 than 10 years ago. Nowhere is the growth more apparent than in the rolling developments in Urbana, the first exit off I-270 in Frederick County," reported the *Baltimore Sun*.[45]

Irrespective of whether they reviewed statistical data, members of the Maryland legislature, like the citizens who testified in the public hearings, were familiar with the I-270 corridor and the role it played for commuting, jobs, and culture in the state. For example, Senate President Mike Miller, arguably the most influential member of the General Assembly, was asked in deposition if he had reviewed "any data concerning commuting patterns on I-270 before you voted on the proposed congressional map in 2011?"[46] Miller responded that "I drive it every second week or so. I spoke to the people in Frederick last week. ... Plus I'm familiar with economic development part of the state. My job is to bring jobs to the state and improve economic development, and I-

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[42] *Id.* at MCM000217.

[43] Heather Keels, "Proposed Congressional Redistricting Plan Has Local Republicans Crying Foul," *Herald Mail*, October 8, 2011, http://articles.herald-mail.com/2011-10-08/news/30259492_1_congressional-districts-state-legislative-districts-special-session.

[44] Brian Witte, "O'Malley Releases Congressional Redistricting Plan," Associated Press, October 11, 2011, available at, e.g. http://baltimore.cbslocal.com/2011/10/15/aide-omalley-redistricting-map-set-for-release/.

[45] Bret Lake, "Congressional Redistricting: Democrats Eyeing Western Maryland," *Baltimore Sun*, August 6, 2011, http://www.baltimoresun.com/news/maryland/.

[46] Miller Depo. Tr. at 19:11-13.

270 is very important to link areas that need economic development within the Washington Metropolitan Area."[47]

VII. THE MORRISON REPORT SUFFERS FROM SERIOUS ERRORS OF SELECTION AND INTERPRETATION.

The one-sided and erroneous approach to the evidence that Dr. Morrison uses in his report for this litigation further reflects its confirmation bias as well as a lack of essential knowledge of Maryland circumstances. The following are examples of such issues:

1) **Frostburg State University**. Dr. Morrison cites this University in Allegany County to claim that "western Maryland has its own institutions of higher learning." He fails to recognize that Frostburg is a cosmopolitan institution that draws students from across the state of Maryland, from out of state, and even from other countries, as indicated in Table 6.

2) **The Maryland Symphony Orchestra**. Morrison cites this orchestra located in Hagerstown, Maryland in Washington County as another example of the distinction between Western Maryland and the Washington suburbs. He cites no evidence in support of his claim that the orchestra has an audience primarily from Western Maryland and the claim is refuted by the Orchestra itself. According to the Orchestra's website: "It is one of only four professional symphony orchestras in Maryland and audience members from South Central Pennsylvania, West Virginia's Eastern Panhandle, the Shenandoah Valley of Virginia and *the Baltimore-Washington Metropolitan area* are drawn to concerts held at the historic Maryland Theatre in downtown Hagerstown."[48]

3) **Local Television**. While Dr. Morrison admits that "some Western Maryland residents can view local affiliates from Washington, D. C. or Baltimore," he goes on to state that there are also local stations in Hagerstown.[49] However, he fails to note that Frederick and Garrett counties also have local TV stations WFPT TV in Frederick and WGPT TV in Oakland. He incorrectly identifies WWPX as located in Hagerstown, when it is actually located in Martinsburg, West Virginia. The station's website notes that "a sale to Benchmark Communications (which would have converted the station to a CBS affiliate for Winchester, Virginia and Hagerstown, Maryland under the WUSQ-TV callsign) fell through."[50]

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[47] Miller Depo. Tr. at 19:14-22.

[48] Maryland Symphony Orchestra, "About the MSO," http://www.marylandsymphony.org/about-mso (emphasis added).

[49] Morrison Report at 8 n.6.

[50] *WWPX-TV*, https://www.revolvy.com/topic/WWPX&item_type=topic.

TABLE 6
GEOGRAPHIC DISTRIBUTION OF STUDENTS AT FROSTBURG STATE UNIVERSITY

County	Number	Percent
Allegany County	919	17.0%
Garrett County	192	3.5%
Washington County	375	6.9%
Frederick County	360	6.7%
Carroll County	146	2.7%
Montgomery County	461	8.5%
Prince George's County	581	10.7%
Baltimore County	360	6.7%
Baltimore City	209	3.9%
Anne Arundel County	258	4.8%
Other Maryland Counties	882	16.3%
Out-of-State	551	10.2%
Foreign	116	2.1%
TOTAL	5,410	
Source: "Enrollment Geography, Fall 2013," received from Maryland Higher Education Commission, 2 June 2015.		

4) **Local Newspapers**. Dr. Morrison again admits that "individuals in western Maryland subscribe to *The Washington Post* and *Baltimore Sun*."[51] He goes on to state that "western Maryland has its own daily newspapers," citing *The Herald-Mail* in Hagerstown.[52] Frederick, however, also has its own local newspaper, the *Frederick News-Post*; as does Allegany County, the *Cumberland Times-News*; and Garrett County, *The Republican* in Oakland. Thus, the local press actually divides rather than unites the counties associated with western Maryland.

5) **Common Media Market**: In examining media, Dr. Morrison fails to take into account the testimony of several witnesses at the public hearings who stated that western Maryland and Montgomery County share a common greater-Washington, DC media market, whereas Carroll, Harford, and Baltimore counties are oriented to the greater-Baltimore media market. For example, Elizabeth Paul, Chair of the Washington County Democratic Central Committee testified that, "We are linked by media outlets including print and television. For example, many more people subscribe to the Washington Post than the Baltimore Sun in this area. The TV markets include us in the Greater D.C. Metro area and not Baltimore, unlike Carroll, upper Baltimore and Harford."[53] Similarly, Bob Kresalein a resident of Frederick County testified that, "Those of us here in Frederick County and west primarily in our media [*sic*] from Washington, D.C. market, if you look — where, if you've got a satellite T.V., you're pretty much getting channels 4, 9, and 7. That's what you're going to get your local news. Many more people get the Washington Post than the Baltimore Sun."[54]

Data on media markets in Maryland confirms this testimony. According to the advertising company, Truck Ads, the Washington media market includes the counties of Montgomery, Frederick, Washington, and Allegany, encompassing every county within the 2011 CD6, except for the thinly populated Garrett County. Echo Star Knowledge Base, designates these same counties as part of the Washington, DC TV Market, but not the counties of Carroll, Harford, and Baltimore, which it designates as part of the Baltimore TV market.[55]

6) **The Secession Movement**. Dr. Morrison devotes two pages to describing a secession movement in western Maryland as indicative of the distinctiveness of the area of the state. Yet Dr. Morrison never demonstrates that this movement represents anything more than a small number of extremists who do not represent the people of western Maryland. According to the CBS News story that Dr. Morrison cites in his report, "more than a thousand have signed petitions" for secession. That number amounts to less than one-sixth of one percent of the total population of the five counties involved, which are home to more than 660,000 people.[56]

7) **The Referendum Vote on the 2011 Congressional Redistricting Plan**. Dr. Morrison discusses the miniscule secession movement for two pages of his report, but ignores the fact that the voters of the counties in CD6 had an opportunity to vote up or down on Maryland's 2011

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[51] Morrison Report at 8 n.7.
[52] *Ibid.*
[53] GRAC, Public Hearing Tr. at MCM0000072-73
[54] GRAC, Public Hearing Tr. at MCM0000023.
[55] Truck Ads, "Designated Market Map," http://www.truckads.com/Designated_Market/Washington_DC.htm#map; Echo Star Knowledge Base, "TV Markets," http://www.dishuser.com/TVMarkets/.
[56] Mary Bubula, "Some Western Md. Residents Want to Form Their Own State," *CBS Baltimore*, February 10, 2014, http://baltimore.cbslocal.com/2014/02/10/some-western-md-residents-want-to-form-their-own-state/.

congressional redistricting plan, which opponents petitioned for referendum in the general election of 2012. As indicated in Table 7, voters in 4 of the 5 counties included in CD6 voted in favor of the adopted congressional plan. Voters rejected the plan only in Garrett County, which cast just 11,616 votes in the referendum election and rejected the plan by just 770 votes. Voters in the other western Maryland counties of Allegany, Washington, and Frederick voted in favor of the plan.

It is most unusual for a state's redistricting plan to be tested by a vote of the people in a referendum. This vote cuts to the heart of plaintiffs' claim that the legislature sought to retaliate against the people of western Maryland in crafting Congressional District 6. If the voters in western Maryland believed that the legislature had retailed against them, the referendum gave the voters in the opportunity to express their displeasure directly and concretely. *They could have voted down the plan. They did not.* Only the very lightly populated Garrett County voted against it, by a small margin. Because of its low population, in any possibly configured congressional district, Garrett County was to be at the mercy of the other counties in congressional elections.

8) **The Rural Composition of Prior CD6**. The Morrison Report as well as the McDonald Report characterizes the prior CD6 as comprising counties that are largely rural in their demography. However, as indicated in Table 8, according to "objective" U.S. Census classifications, these counties were predominantly urban, not rural. The only exception is the very lightly populated Garrett County. It is true that these counties do not contain any major cities like Baltimore, but neither does Montgomery County.

As these examples indicate, Dr. Morrison's analysis is not "objective," but is guided by his own assumptions about what counts demographically for people as a community of interest and how to interpret the information that he does present. Dr. McDonald has criticized such a subjective approach to using demographic data for defining communities of interest, explaining that "'identifying' neighborhoods using demographic data . . .*requires making assumptions about what demographic characteristics are most relevant to community*."[57] Dr. McDonald instead advocates the inference of "neighborhoods and communities from common patterns of activity and/or shared activities," through data collection that would "identify travel patterns[and] land usage patterns." An analysis of travel patterns is provided in Section VI of this report above.[58]

[57] Altman & McDonald, "Redistricting Principles for the 21st Century" at 1196 (emphasis added).
[58] *Ibid.* at 1195-96.

TABLE 7
RESULTS OF 2012 REFERENDUM ON ADOPTED CONGRESSIONAL REDISTRICTING PLAN, 4 COUNTIES IN CD6

County	Number For Plan	Number Against Plan	Percent For Plan
Allegany County	13,250	12,671	51.1%
Garrett County	5,423	6,193	46.7%
Washington County	28,414	27,776	50.7%
Frederick County	59,538	45,863	56.5%
Montgomery County	261,122	139,546	65.2%

Source: Maryland State Board of Elections, "Congressional Districting Plan, November 2012, http://www.elections.state.md.us/elections/2012/results/general/gen_detail_qresults_2012_4_0005S-.html.

TABLE 8
URBAN PERCENTAGE OF POPULATION IN COUNTIES IN CD6 UNDER MARYLAND'S 2001 CONGRESSIONAL PLAN

County	Total Population	Urban Population	Percent Urban
Allegany County	75,087	54,624	72.7%
Garrett County	30,097	4,846	16.1%
Washington County	147,430	103,953	70.3%
Frederick County	233,385	174,554	74.8%
Carroll County	167,134	101,106	60.5%
TOTAL	653,133	434,078	66.5%
U.S. Census, 2010, URBAN AND RURAL Universe: Total population, 2010 Census Summary File 1.			

VIII. THE MORRISON REPORT IS BASED ON A FUNDAMENTAL MISUNDERSTANDING BETWEEN THE SOCIO-ECONOMIC CHARACTERISTICS OF CONSTITUENTS AND REPRESENTATION

Both Dr. Morrison and Dr. McDonald claim that major differences between Montgomery County and the four more western counties in adopted 2011 CD6 are socio-economic. A series of tables that Dr. Morrison highlights in his report show that residents in western Maryland have relatively high poverty and unemployment rates, and low incomes and levels of educational attainment. As shown in Dr. Morrison's tables, the residents are also heavily dependent on welfare assistance programs such as food stamps and Medicaid. But Dr. Morrison's analysis stops here. He does not analyze whether grouping such commonalities translate into effective representation for persons sharing these socio-economic disadvantages.

Tables 9 to 11 below examine key votes by Roscoe Bartlett, the representative from the prior CD6, on education, welfare, employment, and poverty issues that affect the lives of persons who share the socio-economic characteristics of western Maryland. The results reported in these Tables demonstrate that Representative Bartlett voted no on the key programs that would benefit persons of lower socio-economic standing. Representative Bartlett's no votes cannot be explained by party affiliation given that in most of these votes Bartlett was out of line with the great majority of voters in the House of Representatives.[59]

[59] The source of key votes is VoteSmart, Roscoe Bartlett's Voting Records, https://votesmart.org/candidate/key-votes/26891/roscoe-bartlett#.WQk1DRPyvIU.

The point is that economic statistics do not speak for themselves in identifying "communities of interest." The voters of former CD6 continued to elect Roscoe Bartlett regardless of the record I note below, and I am not criticizing that choice in any way. However, it is further evidence that communities may not coalesce or identify *themselves* based on certain commonalities that a demographer could point to as "objective demographic fact." Instead, any such socio-economic statistics must be analyzed and interpreted with respect to what they mean politically for disadvantaged communities in a congressional district.

TABLE 9
KEY VOTES ON EDUCATION, REPRESENTATIVE BARTLETT

Bill	Central Provisions	Bartlett	House Vote
Student Loan Lenders & Grants 2007 HR2699	Increases Pell Grants and lowers interest rates on student loans, allows 180-day loan deferment for veterans.	No	292Y 97N
Reverse the Raid on Student Aid 2007 H Amend 772	Reduces student loan interest rates. Appropriations funds for graduate education of low income and Hispanic students.	No	199Y 220N
Higher Education Amendments of 2008 HR4137	Expands & increases value of Pell Grants for low income students. Requires publication of college costs.	No	380Y 49N
National Volunteer Program Expansion 2009 HR 1388	Expands opportunities for student service, especially disadvantaged youth, and expands Americorps teacher program.	No	321Y 105N

TABLE 10
KEY VOTES ON HEALTH, REPRESENTATIVE BARTLETT

Bill	Central Provisions	Bartlett	House Vote
Extension of Funding for Transitional Medical Assistance and Abstinence Education 2007 S1701	Extends Medicaid coverage for families with increased earnings up to 185 percent above poverty level, continues abstinence education.	No	291Y 126N
State Children's Health Insurance Program (CHIP) Reauthorization 2007 HR 976	Appropriations for the Children's Health Insurance (CHIP) program.	No	265Y 159N
Medicare Bill 2008 HR 6331	Expands Medicare benefits, especially for low-income seniors.	No	355Y 59N
Medicaid Extensions & Changes 2008 HR 5613	Prevents certain Medicaid regulations from being changed until April 1, 2009, including regulations for the Children's Health Insurance Program, graduate medical education, optional case management services, outpatient hospital services, and provider taxes.	No	349Y 62N
Children's Health Insurance Program Reauthorization and Expansion 2009 HR 2	Expands coverage of CHIP program. Prohibits aid to undocumented immigrants. Raises cigarette tax for funding.	No	289Y 139N

TABLE 11
KEY VOTES ON UNEMPLOYMENT AND PUBLIC ASSISTANCE, REPRESENTATIVE BARTLETT

Bill	Central Provisions	Bartlett	House Vote
Section 8 Voucher Adjustments Act 2007 HR 1851	Improves access to housing assistance for low income families.	No	333Y 83N
Farm, Nutrition, & Energy Act 2007 HR 2419	Increases spending on certain forms of agricultural assistance, extends selected agricultural assistance programs until 2012, provides funding for the purchase of certain foods for domestic nutrition programs, lowers income tax credits for ethanol producers,	No	231Y 191N
Emergency Extended Unemployment Compensation Act 2008 HR 5749	Allows states to enter into an agreement with the federal government to extend unemployment compensation for individuals who have already received the maximum regular compensation under state law.	No	274Y 137N
Medicaid Extensions & Changes 2008 HR 5613	Prevents certain Medicaid regulations from being changed until April 1, 2009, including regulations for the Children's Health Insurance Program, graduate medical education, optional case management services, outpatient hospital services, and provider taxes.	No	349Y 62N
Unemployment Benefits Extension 2010 HR 4851	Extends unemployment benefits.	No	289Y 112N

IX. THE RELIANCE ON VOTE DILUTION ANALYSIS UNDER THE VOTING RIGHTS ACT IN DR. MCDONALD'S REPORT IS MISPLACED

In his report, Dr. McDonald purports to apply standard vote dilution analysis under the Voting Rights Act to analyze alleged partisan gerrymandering in CD6, identifying his methodology as "[t]he approach typically used in voting rights litigation."[60] There are several problems with this approach. Dr. McDonald never explains why standards developed for protected minority groups under the Voting Rights Acts should be applied to political partisans. Unlike racial groups, there is no reliable way to identify partisan groups. Party registration or identification is a highly imperfect form of identification because party registration does not assure voting for the party in any given election. For example, Dr. McDonald's own survey data presented on page 8 of his report indicated that only 69 percent of self-identified Democrats indicated an intent to vote for Democratic candidate John Delaney in the 2012 congressional election in CD6 and only 64 percent of self-identified Republicans indicated an intent to vote for Republican candidate Roscoe Bartlett. Moreover, as of the general election of 2016, 23 percent of registered voters in CD6 were not registered as either Democrats or Republicans.[61] Dr. McDonald's survey data indicates no clear party preference in voting for this group. Their political partisan loyalties regarding Maryland's two major parties defy any clear definition.

Unlike racial identifications, people change their party affiliations. A study by the Pew Research Center found that identification as an independent serves as a transition for people moving in and out of identification as Republicans or Democrats. "The recent changes in partisan identification," the study found, "serve as a reminder that affiliation with a party is an attitude, one which can and does change. Previous research has shown that few people switch immediately from Republican to Democratic identification or vice versa. Most of the movement is from independents who assume a party label or from partisans who no longer identify with their former party." The study found that 72 percent of independents had at one time identified as a Democrat or Republican, or both.[62]

Even more unstable than changes in party identification are shifts in party voting, which can change according to the issues and personalities presented by given elections. Consider, for example, voters in Washington County, which was entirely contained within CD6 both in the 2001 and the 2011 redistricting plans. As indicated in Table 12 political loyalties in congressional elections in Washington County shifted from the presidential election year of 2008 to the presidential election year of 2012. In 2008, the Republican congressional candidate Roscoe Bartlett prevailed in Washington County with 57.1 percent of the two-party vote, whereas in 2012, Bartlett lost Washington County with 49.3 percent of the two-party vote. Both years were presidential election years, with the same Democratic candidate on the ticket. So, should

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[60] McDonald Report at 3.

[61] *Ibid.* at 3, 8; Maryland State Board of Elections, "Turnout by Party and Congressional District, 2016," http://www.elections.state.md.us/elections/2016/turnout/general/Official%20by%20Party%20and%20Congressional.pdf.

[62] Pew Research Center, "Trends in Party Affiliation," September 23, 2010, http://www.people-press.org/2010/09/23/section-3-trends-in-party-affiliation/.

Washington County be considered a Democratic or a Republican County? Its racial composition can be objectively determined through Census data, but not its partisan composition.

TABLE 12
PARTISAN VOTING IN WASHINGTON COUNTY, CONGRESSIONAL ELECTIONS OF 2008 AND 2012

Election	Vote For Democratic Candidate	Vote For Republican Candidate	Percent Republican
2012	29,381	28,565	49.3%
2008	24,277	32,278	57.1%
Source: Maryland State Board of Election, 2008 and 2012 General Elections, http://elections.state.md.us/elections/2008/results/general/gen_detail_results_2008_4_BOT00806.html; http://elections.state.md.us/elections/2012/results/general/gen_detail_results_2012_4_BOT00806.html.			

In addition, Dr. McDonald's analysis omits a crucial component of voting rights analysis, an examination of the totality of circumstances facing the protected racial group. A voting rights analysis considers whether, under the "totality of circumstances," an electoral system interacts with social and historical conditions to cause an inequality in the political process. The United States Department of Justice, in explaining how litigation is conducted under the Voting Rights Act, highlights the consideration of the "totality of circumstances" as follows:

"In 1982, Congress extended certain provisions of the Act such as Section 5 that were set to expire, and added protections for voters who required assistance in voting. At the same time, it examined the history of litigation under Section 2 since 1965 and concluded that Section 2 should be amended to provide that a plaintiff could establish a violation of the section if the evidence established that, in the context of the "totality of the circumstance of the local electoral process," the standard, practice, or procedure being challenged had the result of denying a racial or language minority an equal opportunity to participate in the political process."[63]

[63] United States Department of Justice, Section 2 of the Voting Rights Act, https://www.justice.gov/crt/section-2-voting-rights-act.

In his *Backus* deposition, Dr. McDonald recognized that examination of the totality of the circumstances is an essential component of the "typical" voting rights analysis:

> "Well, Section 2, in the terms of the effect prong of Gingles, is that there have to be three conditions present in order to require the drawing of an effective minority district. One, that there must be a presence of racially polarized voting. One, that it's possible to draw the district in a compact manner. And thirdly, what's known as the totality of the circumstances. It's a number of other factors outside the electoral system. Essentially, they're about the past history of discrimination within the jurisdiction."[64]

While Dr. McDonald asserts that his analysis in this litigation is based in the typical voting rights analysis, he provides no such totality analysis in his current report. He has not demonstrated that Maryland has a history of officially discriminating against Republicans or whether as a result of any alleged discrimination Republicans suffer disadvantages relative to Democrats in socio-economic conditions such as income, poverty, education, housing, and health.

Without scrutiny of the totality of circumstances, Dr. McDonald's standard would lead to a violation whenever the ability of a partisan group (however defined) "to elect a candidate of their choice was diminished by district lines that had an effect of diluting their vote." By that standard, unless all district lines are frozen in place with respect to their partisan leanings, virtually every redistricting plan would exhibit vote dilution.

Consider, for example, the case of the swing state of Pennsylvania. Barack Obama won Pennsylvania with 52.7 percent of the two-party vote in 2012 and the state was closely divided in 2016, with Trump winning 50.4 percent of the two-party vote. Yet under a plan drawn by a Republican legislature, in 2012 Republicans won 13 U. S. House seats in Pennsylvania (72%), compared to only 5 won by Democrats (28%). In 2016, Republicans again won 13 U. S. House seats in Pennsylvania (72%), compared to only 5 won by Democrats (28%). An application of Dr. McDonald's voting rights standard to the partisan alignment in Pennsylvania would preclude a more equitable redistricting of House seats, because any such redistricting would require diluting the votes of Republicans in several of the current districts.

X. DR. MCDONALD'S REPORT CONTRADICTS HIS SCHOLARSHIP AND PRIOR TESTIMONY

Dr. McDonald purports to be assessing the intent of Maryland legislators "by examining how well the Sixth Congressional District followed traditional redistricting principles of minimizing county splits and compactness."[65] This, however, is not a meaningful standard. Dr. McDonald's own scholarship indicates that adherence to so-called "traditional redistricting principles" is not a "hedge" against gerrymandering:

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[64] McDonald Dep. at 57:22-25, 58:1-8, *Backus v. South Carolina*, No. 3:11-03120 (D.S.C. Feb. 27, 2012), ECF No. 158.

[65] McDonald Report at 4.

> "Some posit that traditional redistricting principles can act as a hedge against gerrymandering. One should be cautious, however, about putting one's faith in traditional redistricting principles to produce politically neutral outcomes. Chief Justice Brennan pessimistically noted that following traditional criteria, such as drawing pleasing shapes, is a not a gerrymandering cure, stating that, 'this politically mindless approach may produce, whether intended or not, the most grossly gerrymandered results' . . . And, as the next section describes, facially neutral criteria such as geographic compactness are likely to systematically favor one party."[66]

In this same article, Dr. McDonald further notes that there are many purported "traditional redistricting principles," beyond minimizing county splits and compactness: "population equality, contiguity, compactness, respect for existing political boundaries, respect for communities of interest, preservation of district cores, and nesting of districts."[67] In his *Backus* deposition Dr. McDonald states that, "All of these traditional redistricting principles could be or are indicators. They're not by themselves determinative."[68]

In addition, Dr. McDonald states that compactness is not a coherent standard by which to judge districts: "Compactness refers to the shape of a district, but is formally ill-defined. Scholars have proposed over fifty compactness measures, which have not resulted in clarity, since these measures conflict and can be manipulated."[69] Dr. McDonald also criticizes the use of compactness criteria because they have an inherent bias to favor Republicans: "Furthermore, computation-intensive analysis of process measures, enabled by computing advances, has identified potential biases–such as the tendency of compactness criteria to advantage the Republican party, because its support tends to be more evenly distributed geographically."[70] Similarly, Jowei Chen and Jonathan Rodden examined "automated districting simulations based on precinct-level 2000 presidential election results in several states."[71] They found that, "results illustrate a strong relationship between the geographic concentration of Democratic voters and electoral bias favoring Republicans."[72]

In his scholarship, Dr. McDonald stresses the importance of creating competitive districts. "There is also a greater issue of accountability. A legislature composed solely of uncompetitive districts is not accountable to the people. ... Without the fear of defeat, majority legislative parties are not responsive to the needs of the nation or their state; they are at best responsive to their base. Restoring accountability of incumbent members through competition within their districts will encourage accountability of national and state parties, and thus uphold the principles of voter choice that are necessary for a functioning democracy to work."[73]

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[66] Altman & McDonald "Redistricting Principles for the 21st Century," p. 1187.
[67] *Ibid.*, pp.1189-1190.
[68] McDonald Dep. at 38:22-25, *Backus v. South Carolina*, No. 3:11-03120 (D.S.C. Feb. 27, 2012), ECF No. 158.
[69] Altman and McDonald, "Redistricting Principles for the 21st Century," p. 1190.
[70] *Ibid.*, pp. 1195.
[71] Jowei Chen and Jonathan Rodden, "Unintentional Gerrymandering: Political Geography and Electoral Bias in Legislatures," 8 *Quarterly Journal of Political Science* 239, 240 (2013).
[72] *Ibid.*
[73] Michael P. McDonald, "Redistricting and Competitive Districts," in *Electoral Competition and American Politics* 241 (Michael P. McDonald and John Samples, eds., 2006).

The three co-authors of a 2014 article in the Journal of Elections, concluded that "[c]ompetitive campaigns have been found to increase citizens' participation, engagement and learning."[74] These scholars found that "competitive elections have positive effects that endure for at least a year beyond the campaign season, reinforcing the idea that political competition plays a robust role in American representative democracy."[75]

However, Dr. McDonald fails to consider the competitiveness criteria in his evaluation of CD6 in Maryland, even though the Maryland legislature created CD6 as a competitive district. Legislators acknowledged the goal of a competitive CD6 at the time of the redistricting process. According to Democratic State Senator Rich Madaleno, "If you go with a competitive western Maryland district, the way that works is clearly that district comes further into Montgomery County, substantially into Montgomery County. Which historically that district did have. If you remember Congresswoman Byron, Beverly Byron, and her husband before her that district comprised roughly half of Montgomery County at one time. So, we are used to being associated with a western Maryland District."[76] State House Speaker Mike Busch said, "I think the numbers will show that it makes it [CD6] pretty competitive."[77]

The Cook Political Report in 2012 included Maryland's CD6 among its competitive U.S. House districts, rating it a narrow Democrat +2 percentage points. Cook calculates such ratings by comparing the district's average Democratic or Republican Party share of the two-party presidential vote in two presidential contests to the national average. Cook said that the district was "likely Democratic," and the *New York Times* evaluation rated it as "leans Democratic."[78] The average Republican vote across all statewide elections held in this district from 2012 to 2016 is 47 percent (Table 1), which places it within Dr. McDonald's "competitive" range of 45 to 55 percent.[79]

The district also emerges as competitive, although favoring Democrats, under Dr. McDonald's methodology of the "normalized presidential vote." He calculates this measure by subtracting from the two-party presidential vote in the district the two- party presidential vote nationwide. He says "I then add back 50 percent to conceptualize district competitiveness around 50 percent."[80] In 2012 Obama won 52.7 percent of the national vote and 55.4 percent of the District 6 vote for a normalized presidential vote of 52.7 percent, well within the competitive range. In 2016 Clinton won 51.7 percent of the national vote and 56.2 percent of the District 6 vote for a normalized presidential vote of 54.5 percent, also within the competitive range.[81] Table 1 above indicates that Republicans overwhelmingly won CD6 in the 2014 gubernatorial election and very

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[74] Heather Evans, Michael J. Ensley, and Edward G. Carmines, "The Enduring Effects of Competitive Elections," 24 Journal of Elections, Public Opinion, and Parties, 455 (2014).
[75] *Ibid.* at 455.
[76] Video at http://www.marylandjuice.com/2011/09/2012-redistricting-sen-rich-madaleno.html#more.
[77] Associated Press, "6th Congressional District Would Include More of Montgomery County," *Daily Record*, October 4, 2011, http://thedailyrecord.com/2011/10/04/6th-congressional-district-would-include-more-of-montgomery-county/.
[78] Cook Political Report, "2012 Competitive House Race Chart," http://cookpolitical.com/archive/chart/house/race-ratings/2012-07-26_14-08-01; Ballotpedia, "Maryland's Sixth Congressional District Elections, 2012," https://ballotped..a.org/Maryland%27s_6th_Congressional_District_elections,_2012.
[79] McDonald, "Redistricting and Competitive Districts" at 224.
[80] *Ibid.*
[81] *Id.* at 223.

narrowly in the 2014 election for Attorney General. In the 2014 congressional election, John Delany came with just 1,525 votes of losing CD 6 (fewer than 1 percent of votes cast), despite the advantages of incumbency.[82]

Consistent with Dr. McDonald's assessment of competitive districts, CD6 in 2012 elected the moderate Democrat John Delaney, rather than the outlier Republican Roscoe Bartlett. Delaney won the Democratic nomination by defeating the more liberal Garagiola, a sitting State Senator.[83] According to an analysis by GovTrack, Bartlett was among the 25 most conservative members of the U. S. House of Representatives in his last term. In contrast, GovTrack ranked Delaney in 2015 as only the 160th most liberal member of the House, making him the 34th most conservative Democrat out of 192 fellow Democrats.[84] As Dr. McDonald has concluded, in his scholarship, "District competition also affects other aspects of politics, such as the degree of political polarization in Congress, as 'more competitive districts tend to produce more moderate candidates.'"[85]

Dr. McDonald also fails to note that Delaney was not elected with the votes of Montgomery County only, but, as indicated in Table 13, he also won Washington County and the parts of Frederick County included in CD6. Table 13 also indicates that when combined, Delaney carried the four Maryland counties wholly or partially in CD6 under both maps. In addition, as indicated in Table 14, there was no diminution in congressional turnout in the three western Maryland counties included entirely within CD6, when the congressional election of 2012 is compared to the congressional election in the prior presidential year of 2008 under the 2001 congressional redistricting plan. Rather, turnout increased in each county.

[82] http://elections.state.md.us/elections/2014/results/General/gen_results_2014_2_00806.html

[83] John Fritze, "Democrats Fall in Behind Outsider Delaney," *Baltimore Sun*, April 4, 2012, http://www.baltimoresun.com/news/breaking/bs-md-sixth-battle-begins-20120404-story.html

[84] Govtrack, "Roscoe Bartlett," https://www.govtrack.us/congress/members/roscoe_bartlett/400017; "John Delaney, https://www.govtrack.us/congress/members/john_delaney/412544/report-card/2015.

[85] McDonald, "Redistricting and Competitive Districts," p. 233.

TABLE 13
COUNTY BREAKDOWN OF VOTE, 2012 GENERAL ELECTION FOR U.S. CONGRESS, WESTERN COUNTIES CD6

County	**John Delaney (D)**	**Roscoe Bartlett (R)**	**Percent Delaney**
Allegany	11,966	15,730	43.2%
Frederick	31,079	20,148	60.7%
Garrett	3,864	8,445	31.4%
Washington	29,381	28,565	50.7%
Total Western Maryland	**76,290**	**72,888**	**51.1%**
Source: Maryland State Board of Elections, http://www.elections.state.md.us/elections/2012/results/general/gen_detail_results_2012_4_BOT00806.html.			

TABLE 14
COUNTY BREAKDOWN OF CHANGES IN VOTER TURNOUT, 2008 AND 2012 GENERAL ELECTIONS COMPARED

County	Voters 2008	Voters 2012	Percent Change
Allegany	28,190	28,761	+2.0%
Garrett	12,364	12,700	+2.7%
Washington	58,915	60,761	+3.1%
Total	99,469	102,222	+2.8%
Statewide	2,661,905	2,734,176	+2.7%
Source: Maryland State Board of Elections, 2008 General Election and 2012 General Election, http://www.elections.state.md.us/elections/2008/turnout/general/2008_Presidential_General_Congressional_District_06.html; .			

Dr. McDonald correctly indicates that it was possible to create an alternative district more favorable to Republicans than the adopted 2011 CD6. He says that the district is purportedly more compact, although Dr. McDonald has criticized the use of compactness criteria, which he says is biased toward Republicans. Moreover, there are always a myriad of alternative districts that can be created in any plan that are "better" on some selected criteria than the districts in the adopted plan. Dr. McDonald has failed to demonstrate that the alternative district would serve other legitimate redistricting purposes of the plan. The creation of the alternative district would also change the adopted plan beyond CD6 and CD8, since moving counties and precincts out of adopted CD6 would ripple across the state in the adopted plan. Dr. McDonald gave no assurance that the proposed district would respect the legitimate redistricting goals of other areas of the state, such as respecting the non-retrogression mandate of § 2 of the Voting Rights Act in Districts 4 and 7; disallowing a crossing of the Chesapeake Bay; ensuring that District 2 continued to contain all major military installations in Maryland; ensuring all incumbents continued to reside in their district; and ensuring precise mathematical population equality.

XI. DR. MCDONALD'S METHODOLOGY CANNOT ESTABLISH INTENT

Dr. McDonald's methodology is inadequate to prove that the Maryland legislature intentionally discriminated against Republican-leaning voters in CD6 for their political expression. In *Village of Arlington Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252 (1977), the U.S. Supreme Court outlined several factors that it identified as relevant to ascertaining whether legislation was enacted with intentional discriminatory intent: (1) discriminatory impact; (2) historical background; (3) the sequence of events leading up to the decision; (4) procedural or substantive deviations from the normal decision-making process; and (5) contemporaneous viewpoints expressed by the decision-makers. This methodology is consistent with the approach followed by historians in evaluating intent.

Dr. McDonald does not examine the historical background to demonstrate a history of official discrimination in Maryland against Republican-leaning voters. He does not explore the sequence of events leading to the adoption of the 2011 Maryland congressional redistricting plan. He does not evaluate the procedures for adopting the plan, including the referendum on the plan in the November 2012 general election. He does not consider the testimony at public hearings or the presentation of the GRAC to the Maryland General Assembly. He does not cite a single contemporaneous statement by anyone involved in the adoption of the congressional redistricting plan. Dr. Morrison's report, although it does examine some contemporary statements, also fails to consider most of the *Arlington Heights* elements.

Neither Dr. McDonald nor Dr. Morrison considers several possible alternative explanations for the adoption of the plan and CD6, that are separate from any intent to retaliate against voters in CD6 for their political expression. These include, for example, the creation of a community of interest, the unpacking of prior CD8, the reflection of Maryland's domination by the Democratic Party, and the response to Republican gerrymandering in other states, and the assurance that CD1 will not cross the Chesapeake Bay. All these alternative considerations will be addressed below.[86]

[86] Democratic Party has won every statewide election for national office (president and US Senate) during the past three decades. As of the time of redistricting in 2011 the Democrats held a better than 2 to 1 registration advantage

XII. DR. MCDONALD MISUNDERSTANDS MARYLAND'S REPORTING OF ELECTION RESULTS

Dr. McDonald describes as follows his procedure for allocating statewide election results to CD6 from 2012 to 2016:

> "I did some estimation to construct statewide election results within the adopted Sixth Congressional District. Maryland reports complete election results by county *and election results for early voters only by precinct*. Election results are thus available for Allegany, Garrett, and Washington counties, which are entirely contained within the Sixth Congressional District. I estimated precinct-level Election Day candidate tallies for the parts of the Sixth Congressional District contained in Frederick and Montgomery counties. I apportioned the county total Election Day vote for the candidates by the proportion of the early vote a candidate received within a given precinct, relative to the county. I added the known early vote total and estimated Election Day vote total for each precinct, and sum the votes across Frederick and Montgomery counties' precincts assigned to the Sixth Congressional District. I then summed the votes for all counties to produce district-wide totals for the Sixth Congressional District."[87]

However, as indicated above and demonstrated by the precinct results excerpt for the 2012 general election, reproduced exactly from the Maryland State Board of Elections website without modification, Maryland does not report not early votes by precinct. Instead, Maryland reports by precinct only election night votes, that is, votes cast on Election Day. This excerpt clearly shows that the only results reported by the Board of Elections by precinct are for the election night votes and not as Dr. McDonald indicates for early votes. **Thus, Dr. McDonald's fails to accurately reflect** how Maryland reports election results and is estimating procedure is corresponding flawed by this error.

EXCERPT FROM MARYLAND STATE BOARD OF ELECTIONS PRECINCT RESULTS

2012 General Election,
http://www.elections.state.md.us/elections/2012/election_data/index.html,
All_By_Precinct_2012_General

"County","Election District","Election Precinct","Cong","Legs","Candidate Name","Party","Office Name","Office District","Winner","Write-In?","Election Night Votes","Election Night Votes Against"
"01","001","000","06","01C","Barack Obama","DEM","President - Vice Pres","","Y","","66",""
"01","001","000","06","01C","Mitt Romney","REP","President - Vice Pres","","","","351",""

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over Republicans and have maintained that edge through the elections of 2016. http://elections.state.md.us/elections/2010/turnout/general/2010_Congressional_District.html#Dem; http://elections.state.md.us/elections/2016/turnout/general/Official%20by%20Party%20and%20County.pdf

[87] McDonald Report at 9 (emphasis added).

XIII. ALTERNATIVE EXPLANATIONS FOR THE CONFIGURING OF CD6

Both the Morrison Report and the McDonald Report are incomplete. Plaintiffs' experts fail to consider several plausible and reasonable explanations for the new configuration of CD6 that have nothing to do with any intent to retaliate against voters for their political expression.

A. Unpacking Prior CD8

One of the ways in which a district plan disadvantages a political party is through the packing of its voters into a district well beyond what is needed for election of that party's candidates. The result of packing is large numbers of wasted voters to the detriment of the party that dominates the packed districts. Adam B. Cox in his article in the Supreme Court Review explains the impact of packing, using Democratic voters as his example: "Packing Democratic voters into a small number of districts where they constitute large supermajorities ensures Democratic victories in those districts but reduces the total number of seats Democrats capture by increasing the number of wasted Democratic votes-that is, votes cast for Democrats that are either unnecessary or insufficient to win a seat."[88]

By 2008, CD8 under the 2001 redistricting plan was an overwhelmingly packed district. Plaintiffs' expert Dr. McDonald defines for districts "two competitiveness ranges, 45–55 and 48–52 percent."[89] As indicated in Table 15, congressional election results in 2008 and 2010 for CD8 under the 2001 redistricting plan were some 23 to 25 percentage points beyond McDonald's outer range for competitive districts. These results clearly showed former CD8 to be a packed district to the disadvantage of Democrats. For these two elections, the number of wasted Democratic votes is an extraordinary 264,581 votes. I am not claiming here that Democrats deliberately packed CD8 in the prior redistricting, but, as noted above, packing can be a natural result of the distribution of voters and of demographic change over time.

CD8 under the 2001 plan bordered only CD4 and CD6. CD4, which is an African-American voting rights district, was already packed with Democrats and did not present an alternative for the unpacking of CD8. That left CD6 as the reasonable alternative for unpacking CD8 and the 2011 redistricting plan did precisely that. As indicated in Table 16, the 2011 plan succeeded in substantially unpacking CD 8. For the congressional elections of 2012 and 2014, (also, one presidential and one midterm year election), the Democratic percentage in CD8 dropped by some 12 to 14 percentage points. The number of wasted votes plummeted from 264,581 to 153,362, a decline of 111,219 wasted votes.

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[88] Adam B. Cox, "Gerrymandering and Disaggregated Districts," *Supreme Court Review*, 2004 429 (2004).

[89] Michael P. McDonald, "Redistricting and Competitive Districts," in *The Marketplace of Democracy: Electoral Competition and American Politics* 224 (McDonald and Samples, eds., 2006). Similarly, Barack Obama prevailed in the 2008 presidential election with 74.5 percent of the vote, not counting absentee and provisional ballots, which statewide were more favorable to Democrats. Maryland State Board of Elections, State Precinct Reference for 2008 Election, http://www.elections.state.md.us/elections/2008/election_data/index.html.

TABLE 15
PACKING IN CD8 UNDER MARYLAND'S 2001 REDISTRICTING PLAN AND WASTED VOTES
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Election	Democratic Votes	Republican Votes	Democratic Percentage	Wasted Democratic Votes
2008	229,740	66,351	77.6%	163,389
2010	153,613	52,421	74.6%	101,192
Total	383,353	118,772	76.3%	264,581
Source, Maryland State Board of Elections, General Elections of 2008 and 2010, http://www.elections.state.md.us/elections/2008/results/general/gen_results_2008_4_00808.html; http://www.elections.state.md.us/elections/2010/results/General/gen_results_2010_2_00808.html.				

TABLE 16
UNPACKING OF CD8 UNDER MARYLAND'S 2011 REDISTRICTING PLAN AND WASTED VOTES

Election	Democratic Votes	Republican Votes	Democratic Percentage	Wasted Democratic Votes
2012	217,531	113,033	65.8%	104,499
2014	136,722	87,859	60.9%	48,863
Total	354,254	200,892	63.8%	153,362
Source: Maryland State Board of Elections, 2012 and 2014 General Elections, http://www.elections.state.md.us/elections/2012/results/general/gen_results_2012_4_00808.html; http://elections.state.md.us/elections/2014/results/General/gen_results_2014_2_00808.html.				

B. Realizing the Democratic Majority

Maryland is one of the most Democratic-dominated states in the nation. Yet Maryland Democrats' position, holding 75 percent of congressional seats after the 2010 elections, lagged behind the percentage of congressional seats held by the dominant party in most other states that were dominated by either political party. Table 17 reports the percentage of congressional seats held after 2010—the last election before redistricting--by relatively medium-sized states like Maryland (4 to 12 congressional districts) in which one party gained at least 60 percent of the vote in the 2008 vote for president. As indicated in Table 17, Maryland's percentage of the two-party presidential vote was about comparable to other states. Yet Maryland's percentage of congressional seats was *13 percentage points below* the average percentage of congressional seats won by the respective party that controlled the redistricting process in the 5 states.

An instructive comparison is provided by Massachusetts, which has just one more congressional seat than Maryland. Democrats about equally dominate the two states. However, all 9 congressional seats in Massachusetts were held by Democrats after 2010, compared to 6 of 8 seats in Maryland.

After the 2011 redistricting Maryland was in line with other party-dominated states. As indicated in Table 18, Maryland's percentage of the two-party presidential vote was about comparable to other states; so too was its percentage of seats held by the dominant party as compared to other states. Once again Democrats held all 9 congressional seats in the comparable state of Massachusetts.[90]

C. Responding to the Nationwide Context of Congressional Redistricting

Plaintiffs' experts fail to draw the important distinction between state legislative and congressional redistricting. Each state establishes a redistricting plan that is dispositive for the seats comprising its state legislature. But the composition of the U. S. Congress reflects the results of redistricting plans by all states with more than a single representative. Thus, the context for any one state's congressional redistricting decisions includes the redistricting processes taking place in other states. Adam B. Cox explains that, "Congressional political gerrymanders pose different analytic, normative, and constitutional questions than do state legislative gerrymanders. The latter implicate the composition of the whole legislative body, while the former affect only a part."[91]

The Maryland Constitution explicitly recognizes the distinction between state legislative and congressional redistricting. The Constitution stipulates specific requirements for legislative redistricting plans, but none for congressional redistricting plans. [92]

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[90] For uncontested elections, results are imputed from presidential election results.

[91] Adam B. Cox, "Partisan Gerrymandering and Disaggregated Redistricting," *Supreme Court Review* 2004 451 (2004).

[92] The Constitution of Maryland, Article III, Section 4 specifies that "Each legislative district shall consist of adjoining territory, be compact in form, and of substantially equal population. Due regard shall be given to natural boundaries and the boundaries of political subdivisions. There is no requirement in the constitution for congressional districts. http://msa.maryland.gov/msa/mdmanual/43const/html/const.html.

TABLE 17
DOMINANT PARTY STATES: PERCENT VOTES CONGRESS AND PRESIDENT 2008, PERCENT CONGRESSIONAL SEATS WON*

State	Dominant Party	Vote For Dominant Party 2008 President	Congressional Seats Won by Dominant Party 2010	Congressional Seats Won by Second Party 2010
Alabama	Republican	60.9%	6 (86%)	1 (14%)
Connecticut	Democrat	61.3%	5 (100%)	0 (0%)
Arkansas	Republican	60.2%	3(75%)	1(25%)
Maryland	Democrat	62.9%	6 (75%)	2 (25%)
Massachusetts	Democrat	63.2%	9 (100%)	0 (0%)
Oklahoma	Republican	65.7%	4 (75%)	1(25%)
All States		**62.4%**	**33 (87%)**	**5 (13%)**
Difference MD All States		**+0.5%**	**-12%**	**+12%**

TABLE 18
DOMINANT PARTY STATES: PERCENT VOTES CONGRESS AND PRESIDENT 2012, PERCENT CONGRESSIONAL SEATS WON*

State	Dominant Party	Vote For Dominant Party 2012 President	Congressional Seats Won by Dominant Party 2012	Congressional Seats Won by Second Party 2012
Alabama	Republican	61.2%	6 (86%)	1 (14%)
Arkansas	Republican	62.2%	4 (100%)	0 (0%)
Kansas	Republican	61.1%	4 (100%)	0 (0%)
Kentucky	Republican	61.5%	5 (83%)	1 (17%)
Maryland	Democrat	63.3%	7 (88%)	1 (12%)
Massachusetts	Democrat	61.8%	9 (100%)	0 (0%)
Oklahoma	Republican	66.8%	5 (100%)	0 (0%)
Tennessee	Republican	60.4%	7 (78%)	2 (22%)
Utah	Republican	74.6%	3 (75%)	1 (25%)
All States		**63.7%**	**50 (91%)**	**6 (11%)**
Difference MD All States		**-0.4%**	**-1%**	**+1%**

In formulating its 2011 redistricting plan for its contribution to the U. S. Congress, **Maryland's legislators faced two critical contextual issues. First, Republicans, having gained** the advantage in more state governments than Democrats during the period of post-2000 redistricting had used partisan gerrymandering to boost their representation in Congress. Second, Republicans had gained control of additional states for the post-2010 redistricting and were poised for another round of gerrymandering that would further expand their edge in congressional elections.

Plaintiffs' expert Dr. McDonald, writing in 2011, clearly explicated this political context of the Republican-dominated gerrymandering of congressional seats.

> **"The defining characteristic of the 2010** midterm elections is likely the historic success of Republican candidates in federal and state races, following back- to-back decisive victories for Democrats. A fairly clear picture has now emerged as to who will control redistricting in each state. *Republicans appear well-poised to cash in on their electoral wins by creating redistricting plans that will tilt the electoral balance for the upcoming decade in their favor in large, battleground states where partisan gerrymandering is most potent.*"[92]

> **"Republicans control 16 states,** Democrats control **six states, and the remaining** 15 states have divided government. As several political commentators, including myself, **have noted, the Republicans'** prize states include Florida, Michigan, North Carolina, Ohio, Pennsylvania, and Texas. Democrats were stripped of their largest prize- California- by the passage of a ballot initiative in 2010 that gave control of congressional redistricting to a state legislative commission established in 2008, and they only control one state where they can greatly alter the congressional **balance of power, Illinois.** ... *Republicans were also in a great position 10 years ago.* Now, they control only three more critical states- North Carolina, Ohio, and Tennessee- than they did 10 years ago (numerically, they control more states, but **these three are the most consequential).**"[93]

Similarly, **Gary Jacobson, arguably the nation's foremost scholar of congressional** elections, found that **"Republicans enjoyed two advantages in redistricting** after the 2000 Census. First, the states that gained seats after 2000 were more Republican in their voting habits that were **the states that lost seats ... Second, Republicans controlled the redistricting process in several** of the large states that were set to lose or gain seats, and they used that control effectively to boost **their House representation."**[94] In an article published in the *Yale Law and Policy Review*, J. Gerald Hebert, the former Acting Chief of the U. S. Justice Voting Rights Section, who contributed an amicus brief on behalf of plaintiffs in earlier stages of this litigation, cites three examples of invidious partisan gerrymandering following the 2000 U.S. Census, all in Republican controlled states. "The redistricting experiences in Florida, Michigan, and Texas following the 2000 U.S. census provide compelling examples of the danger of unfettered partisan redistricting."[95]

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[92] Michael P. McDonald, "The 2010 Midterm Elections: Signs and Portents for the Decennial Redistricting," 44 *PS: Political Science and Politics* 311, 312 (2011). (emphasis added).

[94] Gary Jacobson, *The Politics of Congressional Elections*, 7th ed., (New York: Pearson, 2009), p. 10.

[95] J. Gerald Hebert and Marina K. Jenkins, "The Need for State Redistricting Reform To Rein in Partisan Gerrymandering," 29 *Yale Law and Policy Review* 543, 552 (2011).

Legislatures do not blind themselves to these realities of congressional as opposed to state legislative redistricting. To offset the large Republican advantage in more heavily populated, and in many cases, competitive states, with significant consequences for representation in Congress, it was reasonable for the Maryland legislature to make CD6 into a more competitive district for Democrats.

District 6 Republican Representative Roscoe Bartlett himself recognized during his 2012 reelection campaign that the Maryland legislature's congressional plan was not intended to retaliate against himself or his supporters. Rather, it responded to Republican gerrymandering across the nation. "*'It's not personal' Bartlett said about the redistricting plan. 'They just needed another Democrat seat. The Democrats only control, I think, six states and the District [of Columbia]. Republicans control, I think, four times that. So they had to find pick-up opportunities anywhere they could.'*"[96]

Then-state Senator Jamie Raskin, an advocate of redistricting reform, explained that the Maryland legislature could not have been expected to "unilaterally disarm," given Republican legislatures' advancement of party goals in larger competitive states when those gains were of much greater consequence on the partisan composition of congress. He cites the examples of North Carolina and Ohio, which both created supermajority districts of each party, resulting in a loss of representation for Democrats.[97]

As indicated by the report of demographer Bill Cooper, the Maryland legislature could have adopted a plan which would have given Democrats an edge in all 8 congressional districts, creating the potential for Democrats to control all congressional seats as they did in Massachusetts. Table 20, taken from the Cooper Report indicates that the alternative map contains 8 majority-Democratic districts. The Table also indicates that the 8-0 map preserves two majority African American districts.

The map included in the Cooper report demonstrates that the plan creates reasonably compact districts, given Maryland's unique geography. This further shows that there is no particular correlation between so-called "traditional redistricting principles" and the partisan composition of a redistricting plan. Dr. Morrison quotes Mr. Hawkins to the effect that incumbent Democratic members of Congress opposed such a redistricting plan even if it was more favorable to Democrats.[98] However, although incumbent members have an important influence on congressional redistricting, they are not the final decision-makers, and if the goal of the legislature had been to retaliate against Republican inclined voters in Maryland they could have done so more aggressively through an alternative redistricting plan. The 8-0 map would also maintain the cross-Bay configuration that was present in the 2002 congressional map, a violation of traditional redistricting principles rejected by the 2011 congressional map drawers even at the expense of achieving a more effective Democratic map (see Section XII.4 below).

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[96] Evan Serpick, "The Last Stand of Roscoe Bartlett," *Baltimore Magazine*, May 2012, http://www.baltimoremagazine.com/2012/5/5/the-last-stand-of-roscoe-bartlett (emphasis added).

[97] Jamin B. Raskin, "Nonrepresentational Line-Drawing and the Universal Representational Imperative: Why Judges Should Replace Gerrymandering with Proportional Representation," *Yale Law and Policy Review*, (Winter, 2012), http://ylpr.yale.edu/inter_alia/nonrepresentational-line-drawing-and-universal-representational-imperative-why-judges.

[98] Morrison Report at 15-16.

TABLE 19
ILLUSTRATIVE DEMOCRATIC REDISTRICTING PLAN WITH 8 DEMOCRATIC DISTRICTS

District	Population	% African American 18+	Democratic Percentage President 2008
1	722,429	19.6%	54.9%
2	720,465	22.4%	52.5%
3	720,600	25.1%	61.8%
4	721,571	55.8%	79.0%
5	721,786	30.1%	57.0%
6	721,529	11.3%	56.2%
7	721,892	52.2%	72.1%
8	721,959	11.3%	62.5%

Source: Report of Bill Cooper. The Democratic percentages are slightly understated because the Harvard Archive on which the report relies, does not include the absentee and provisional votes (9.1 percent of all votes), which are more Democratic (67.1%) than the election day votes (62.5%), Maryland State Board of Elections, 2012 General Election, President, http://www.elections.state.md.us/elections/2008/results/general/gen_results_2008_4_001-.html.

D. Responding to the Goal of Realigning Congressional District 1 So That it Did Not Cross the Chesapeake Bay

The state of Maryland explicitly indicated at the time of the redistricting process that one of the goals of the congressional plan was to conform to traditional redistricting principles by reconfiguring Congressional District 1 so that it no longer crossed the Chesapeake Bay. In its presentation to the General Assembly, GRAC expressly outlined the goal of devising a plan for Congressional District 1 that, unlike the previous plan, did not cross the Chesapeake Bay. In its presentation on CD1 GRAC noted that, **"9 Eastern Shore Counties are kept together. District** no longer crosses the Chesapeake Bay into more urban areas of Anne Arundel County and instead **runs into rural portions of Carroll County."**[99] State Democratic Delegate Kathleen Dumais, one of the legislative decision-makers, in defending the 2011 congressional plan prior to the November 2012 referendum also highlighted the realignment of CD1 so that it met the goal of not crossing the Bay. In an Op Ed published on October 29, 2012, Delegate Dumais reiterated the GRAC statement on the priority of not crossing the Bay in new CD1. She wrote, **"District 1 keeps the nine** Eastern Shore counties together and no longer crosses the Chesapeake Bay into more urban areas of Anne Arundel County. Instead, it runs into rural **portions of Carroll County."**[100]

To maintain the required population for the new CD1 that did not cross the Bay, it was necessary to add in not only the population from Carroll County, which had previously been in CD6, but also the parts of Harford County and Baltimore County that were also in the prior CD6. As indicated in Table 20, taken from the Report of Bill Cooper, the amount of Anne Arundel population removed from prior CD 1 almost exactly equals the amount of population added in from Carroll County, Harford County, and Baltimore County. To assure that the new CD6 conformed to the one-person, one-vote requirement, the legislature included additional population from Montgomery County, parts of which were already in CD6 under the 2002 congressional redistricting plan. As indicated in Table 20, the transfer in and out of CD1 had no effect on racial opportunities since the areas of exchange were overwhelmingly white with very small black and Hispanic voting age populations.

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[99] GRAC "Recommended Congressional Plan."

[100] Kathleen Dumais, "Md. Congressional Map is Fair, Legal," *Baltimore Sun*, October 29, 2012, http://www.baltimoresun.com/news/opinion/oped/bs-ed-redistricting-20121029-story.html.

TABLE 20
DEMOGRAPHIC STATISTICS POPULATION TRANSFERS 2011 CONGRESSIONAL PLAN CD1

CD1	Adj. Pop	Black %	Black 18+ %	Hispanic 18+ %	NH White
Removed From Anne Arundel	107,577	4.3%	4.2%	2.5%	89.9%
Added From CD6 in Harford, Baltimore & Carroll	106,562	2.0%	1.9%	1.4%	95.0%
Source: Report of Bill Cooper.					

CONCLUSION

In sum, the reports of plaintiffs' experts fail to establish any of the key elements of their claims. Moreover, the weight of the evidence and analysis contradicts these claims. Standard methods for assessing partisan gerrymandering, including the procedure used by Dr. McDonald in prior testimony, demonstrate that Maryland's 2011 congressional redistricting plan was not a partisan gerrymander. Dr. McDonald's effort to apply the standards used in voting rights analysis, moreover, does not withstand scrutiny. Similarly, application of methodology on jobs and commuting used by Dr. Morrison in a prior challenge to Maryland's 2011 congressional plan demonstrates that the new CD6 comprises a community of interest. Citizens testifying at public hearings and the Governor's Advisory Redistricting Committee stressed these aspects of the community of interest in new CD6.

Neither Dr. Morrison nor Dr. McDonald deploy a social science methodology sufficient to establish the intent of decision-makers for the 2011 congressional plan. The supposition that decision-makers intended to retaliate against Republican-leaning voters is refuted by the failure to create a partisan gerrymander, the statement of former Representative Roscoe Bartlett, the votes of the people of western Maryland themselves, and the fact that Democrats could have created a plan that gave Democrats an edge in all 8 Maryland districts. It is additionally refuted by four alternative explanations for the crafting of the 2011 congressional districts, all of them unexamined by plaintiffs' experts. These include:

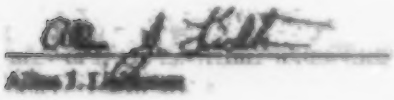
1. Unpacking Congressional District 8, with its large numbers of wasted Democratic votes.

2. Realizing the Democratic majority in Maryland in conformity with other states largely dominated by one party in national elections.

3. Responding to the nationwide context of congressional redistricting that the Maryland constitution treats differently from state legislative redistricting.

4. Meeting the criterion of not crossing the Chesapeake Bay in the drawing of new Congressional District 1.

Date: May 8, 2017



Allan J. Lichtman

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United States elections, 2014

From Wikipedia, the free encyclopedia

The **2014 United States elections** were held on Tuesday, November 4, 2014, in the middle of Democratic President Barack Obama's second term. During this midterm election year, all 435 seats in the United States House of Representatives and 36 of the 100 seats in the United States Senate were contested; along with 39 state and territorial governorships, 46 state legislatures (except Louisiana, Mississippi, New Jersey, and Virginia),[1] four territorial legislatures, and numerous state and local races. This midterm election became the most expensive in history, with total spending reaching $3.7 billion (including spending by outside entities[2]), while producing the lowest turnout since 1942.[3][4][5]

The elections saw sweeping gains by the Republican Party in the Senate, House, and in numerous gubernatorial, state, and local races. The Republicans gained control of the Senate for the first time since 2006, and increased their majority in the House.[6] The Republicans also gained two seats in governors' races.[7]

Overall, the elections resulted in the largest Republican majority in the entire country in nearly a century, with 54 seats in the Senate, 247 (56.78%) in the House, 31 governorships (62%), and 68 state legislative chambers. Moreover, Republicans gained their largest majority in the House since 1928, the largest majority in Congress overall since 1928, and the largest majority of state legislatures since 1928.[8][9][10]

Political scientist Gary C. Jacobson argues that the voters treated the election as a referendum on the economy and especially on Obama's presidency. The result was the most partisan, nationalized, and president-centered midterm election in at least 60 years.[11]

2014 United States elections

Midterm elections

Election day	November 4
Senate elections	
Seats contested	33 seats of Class II and 3 mid-term vacancies
Net change	Republican +9, Democratic −9

Map of the 2014 Senate races

Democratic hold Republican hold Republican gain

Line through state means both Senate seats were up for election

House elections	
Seats contested	All 435 seats to the 114th Congress
Net change	Republican +13, Democratic −13

Map of the 2014 House races

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Cook Partisan Voting Index

From Wikipedia, the free encyclopedia

The **Cook Partisan Voting Index**, also called **PVI**, is a measurement of how strongly a United States congressional district or state leans toward the Democratic or Republican Party, compared to the nation as a whole. *The Cook Political Report* introduced the PVI in August 1997 to better gauge the competitiveness of each district using the 1992 and 1996 presidential elections as a baseline.[1] The index is based on analysis by the Center for Voting and Democracy (now FairVote) for its July 1997 *Monopoly Politics* report.[2]

Map by state (After the 2016 election)

Map by 115th House district (After 2016 Election)

Contents

- 1 Calculation
- 2 Format
- 3 List of PVIs
  - 3.1 Extremes and trends
  - 3.2 By congressional district
  - 3.3 By state
- 4 See also
- 5 References
- 6 External links

Calculation

PVIs are calculated by comparing the district's average Democratic or Republican Party's share of the two-party presidential vote in the past two presidential elections to the nation's average share of the same. The national average for 2004 and 2008 was 51.2% Democratic to 48.8% Republican.[1] For example, in Alaska's at-large congressional district, the Republican candidate won 63% and 61% of the two-party share in the 2004 and 2008 presidential elections, respectively. Comparing the average of these two results (62%) against the average national share (49%), this district has voted 13 percentage points more Republican than the country as a whole, or R+13.

Prior to its April 2009 update, the PVI formula was calculated by comparing district-level results for the past two presidential elections to nationwide results for the most recent election. David Nir of the Swing State Project advocated a change to the new formula, and Charlie Cook agreed, wanting an "apples to apples" comparison.[3]

JOINT APPENDIX VOL 4

No. 18-726

In The
Supreme Court of the United States

LINDA H. LAMONE, *et al.*,

Appellants,

v.

O. JOHN BENISEK, *et al.*,

Appellees.

On Appeal From The United States District Court For The District Of Maryland

JOINT APPENDIX
VOLUME IV OF V (JA880 – JA1163)

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Appeal Docketed Dec. 6, 2018
Jurisdiction Postponed Jan. 4, 2019

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REDISTRICTING 2012 | By David Wasserman, October 11, 2012

Introducing the 2012 Cook Political Report Partisan Voter Index

The Cook Political Report is pleased to introduce our new 2012 Partisan Voter Index (PVI) for all 435 newly redrawn Congressional districts in the country, compiled especially for the *Report* by POLIDATA©. First introduced in 1997, the Cook PVI measures how each district performs at the presidential level compared to the nation as a whole. Up until this week, we had used preliminary PVI estimates to gauge the competitiveness of newly drawn seats. But this much more complete data set provides a powerful tool to compare today's array of districts with that of cycles past, view the partisan rank order of districts, and determine redistricting's winners and losers.

Unfortunately for Democrats, this year's index tells a dire story of what can happen when a party suffers an ugly election cycle right before redistricting. Democrats couldn't have picked a worse year to than 2010 to get clobbered: they lost not only 63 House seats but also more than 680 state legislative seats – empowering Republicans to draw ten-year maps in four times as many districts as Democrats. As a result, thanks to effective GOP cartography, **the number of "strong" Republican seats has jumped from 182 to 190 and the number of "strong" Democratic seats has fallen from 150 to 146. Meanwhile, the number of "swing" seats has fallen below 100 for the first time, from 104 to 99.**

If both parties hold all their "strong" districts, **Democrats would now need to win 73 percent of all "swing" districts to achieve a majority** – a very difficult feat even in a "wave" year, something 2012 does not appear to be. It also doesn't help Democrats that of the 99 "swing seats" (those between D+5 and R+5 in the PVI), 56 lean slightly to Republicans while just 43 lean slightly to Democrats. If every single seat elected a member consistent with its PVI score, there would be 246 Republicans and 189 Democrats, not far off from the current count in the House. **This suggests that in a "neutral" year, Democrats could win just as many popular votes for House as the GOP and still fall more than two dozen seats shy of a majority.**

Subscribers can view the full 2012 Partisan Voter Index in three different formats below:

2012 Partisan Voter Index by State and District »
2012 Partisan Voter Index by Member Name »
2012 Partisan Voter Index by Partisan Rank »

Before and After Redistricting: Partisan Distribution of the House

In many respects, observing House Democrats trying to take back their majority is like watching a soccer team play an evenly matched opponent when the field is slanted 15 degrees against them. Before redistricting, Republicans started out with 182 "strong" seats, 36 short of a majority. After GOP-dominated redistricting, there are 190 seats with a PVI score of R+5 or greater, requiring them to win merely 28 of 56 "moderately" or "barely" GOP seats to

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keep their majority.

A look at the partisan distribution of House seats before and after redistricting illustrates how effectively Republicans played "keep-away" in the states they controlled. Rather than drawing hyper-aggressive maps, they placed an emphasis on turning moderately Republican seats into strongly Republican seats. They also eliminated Democratic seats in states that lost seats – Michigan, Missouri, and Pennsylvania to name a few – and dropped the number of "strong" Democratic seats from 150 to 146.

Redistricting Before & After: Partisan Distribution of the House

Strongly Republican (R+5 or Greater)	182	190	+8
Moderately Republican (R+2 to R+5)	38	33	-5
Barely Republican (EVEN to R+2)	20	23	+3
	240	246	+6
Barely Democratic (EVEN to D+2)	17	12	-5
Moderately Democratic (D+2 to D+5)	28	31	+3
Strongly Democratic (D+5 or Greater)	150	146	-4
	195	189	-6

The Decline of the "Swing Seat"

The most striking House statistic in the last 15 years may be the decline of competitive districts, places where members have the most incentives to work on a bipartisan basis. In 1998, our Partisan Voter Index scored 164 districts between D+5 and R+5, more than a third of the House, and greater than both the number of strongly Democratic and strongly Republican seats. After 2012 redistricting, there are only 99 districts between D+5 and R+5 – less than a quarter of the House and a 40 percent decline since 1998.

Not all of the swing seat decline is attributable to redistricting. In many minimally altered districts, the local electorate has simply become much more homogenous. For example, the boundaries of West Virginia's 2nd CD haven't changed much since 1998, but its PVI score has shifted from EVEN to R+8 as voters have moved away from the national Democratic brand. Likewise, Albuquerque's migration to the left has bumped the PVI score of

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New Mexico's 1st CD from R+1 to D+5 in ten years.

But voter self-sorting has also enabled partisan gerrymanderers to more easily polarize districts wherever they wield power over the map. As Robert Draper astutely observed in *The Atlantic*, the goal of partisan mapmakers is often to "design wombs" for your team and "tombs for the other guys." But in the case of Northern Virginia's 11th CD, Republicans actually boosted Democratic Rep. Gerry Connolly's PVI from D+2 to D+7 in order to make neighboring districts more Republican.

One exception to this dramatic polarization of districts has been California, where a new nonpartisan, citizen-driven redistricting process boosted the number of seats between D+5 and R+5 from eight to 14 overnight. Another exception is New York, where a court-drawn map increased the count of such seats from 11 to 12. But in the remainder of the country, the number of swing seats fell 11 percent, from 82 to 73. The below chart illustrates the overall swing seat trend line between 1998 and 2012:

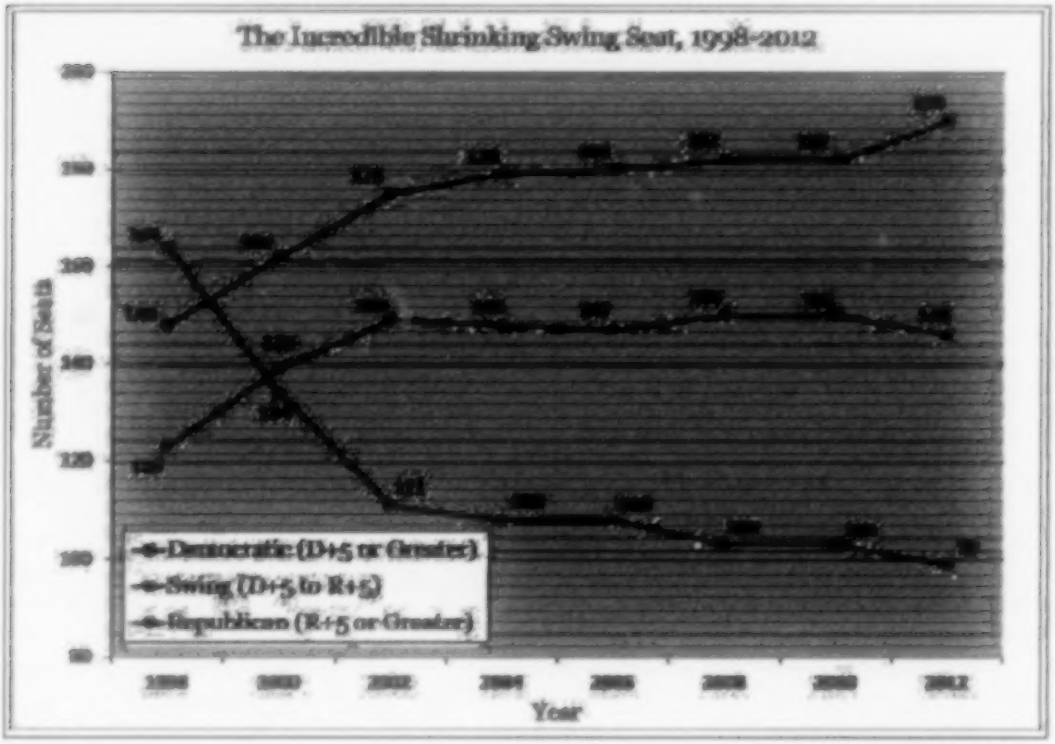

Chart Credit: 2012 Cook Political Report

This chart provides a more detailed look at the partisan breakdown of seats heading into the 2000 election versus where we are today:

Partisan Voter Index (PVI) Summary

1992/1996 Summary: Going Into the 2000 Election

D+10.0 or Greater	D+5.0 to D+9.9	D+2.0 to D+4.9		R+2.0 to R+4.9	R+5.0 to R+9.9	R+10.0 or Greater
77	40	34	31	15	12	2

D+10.0 or Greater	D+5.0 to D+9.9	D+2.0 to D+4.9		R+2.0 to R+4.9	R+5.0 to R+9.9	R+10.0 or Greater
4	2	9	37	38	60	74

D+10.0 or Greater	D+5.0 to D+9.9	D+2.0 to D+4.9		R+2.0 to R+4.9	R+5.0 to R+9.9	R+10.0 or Greater
81	42	43	68	53	72	76
123					148	

2004/2008 Summary: Going Into the 2012 Election

D+10.0 or Greater	D+5.0 to D+9.9	D+2.0 to D+4.9		R+2.0 to R+4.9	R+5.0 to R+9.9	R+10.0 or Greater
104	38	26	11	0	9	5

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D+10.0 or Greater	D+5.0 to D+9.9	D+2.0 to D+4.9		R+2.0 to R+4.9	R+5.0 to R+9.9	R+10.0 or Greater
0	4	5	24	33	59	117

D+10.0 or Greater	D+5.0 to D+9.9	D+2.0 to D+4.9		R+2.0 to R+4.9	R+5.0 to R+9.9	R+10.0 or Greater
104	42	31	35	33	68	122

146 190

The "Median District" and PVI Rankings

Another way of gauging the impact of redistricting is the concept of the "median district." Because the Democratic vote tends to be more geographically concentrated in "safe" seats than the Republican vote, the median House district has always leaned slightly Republican since we introduced the Partisan Voter Index. In 1998, the median district was Washington's 8th CD, held by suburban Seattle GOP Rep. Jennifer Dunn, which was one point more Republican than the national average.

Over the last four years, the median district was Wisconsin's 1st CD, held by none other than Rep. Paul Ryan, with a PVI score of R+2. Today, the median district is that of Michigan GOP Rep. Tim Walberg, whose 7th CD has a PVI score of R+3. By comparison, the most Republican district in the country is now Amarillo's TX-13, with a score of R+29, while the most Democratic district is still the Bronx's NY-15, with a PVI score of D+41.

The "median district" has crept rightward by about two points since 1998. Not only has the Democratic vote become even more concentrated since the mid-1990s; Republicans have also used the redistricting process to "raise the bar" Democrats would need to clear to win a majority. Whereas the House used to be a more level playing field, Democrats could now win every single seat up to R+2 and still fall short of a House majority.

The Median & Most Partisan Districts, 1998-2012

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PVI Year	Most Democratic	Median Seat	Most Republican
1998	NY-15: Rangel (D+38)	WA-08: Dunn (R+1)	TX-19: Combest (R+26)
2000	NY-16: Serrano (D+42)	CA-23: Capps (R+1)	TX-19: Combest (R+29)
2002	NY-16: Serrano (D+44)	MI-11: McCotter (R+2)	TX-08: Brady (R+28)
2004	NY-16: Serrano (D+43)	TX-15: Hinojosa (R+2)	UT-03: Cannon (R+27)
2006	NY-16: Serrano (D+43)	AZ-08: Giffords (R+2)	UT-03: Cannon (R+27)
2008	NY-16: Serrano (D+41)	WI-01: Ryan (R+2)	AL-06: Bachus (R+29)
2010	NY-16: Serrano (D+41)	WI-01: Ryan (R+2)	AL-06: Bachus (R+29)
2012	NY-15: Serrano (D+41)	MI-07: Walberg (R+3)	TX-13: Thornberry (R+29)

Before and After Redistricting: Winners and Losers

The two charts below provide a look at which districts underwent the most dramatic alterations in redistricting. While the top 25 most dramatic swings *against* the incumbent party were fairly even between the two parties (14 Democratic and 11 Republican seats), Republicans were the clear beneficiaries where districts swung in favor of the incumbent party: 19 Republican seats experienced dramatic performance boosts compared to just six Democratic districts.

25 Biggest Redistricting Swings Favoring the Incumbent Party

19 Republican, 6 Democratic

Rank	District	Incumbent	PVI Before	PVI After	Swing	Current Cook Rating
1	TX-27	Blake Farenthold (R)	R+2	R+13	+10.65	Solid Republican
2	WA-09	Adam Smith (D)	D+5	D+15	+10.36	Solid Democratic
3	PA-17	Tim Holden (D)*	R+6	D+4	+10.35	Solid Democratic
4	PA-11	Lou Barletta (R)	D+4	R+6	+10.19	Solid Republican
5	AZ-04	Paul Gosar (R)	R+6	R+16	+9.93	Solid Republican

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6	NY-26	Brian Higgins (D)	D+6	D+13	+9.73	Solid Democratic
7	TN-08	Stephen Fincher (R)	R+6	R+15	+9.27	Solid Republican
8	OH-12	Pat Tiberi (R)	D+1	R+8	+9.14	Solid Republican
9	NC-02	Renee Ellmers (R)	R+2	R+11	+8.85	Solid Republican
10	LA-06	Bill Cassidy (R)	R+10	R+19	+8.75	Solid Republican
11	OH-15	Steve Stivers (R)	D+1	R+6	+7.21	Solid Republican
12	MI-12	Rush Holt (D)	D+5	D+12	+7.00	Solid Democratic
13	OH-01	Steve Chabot (R)	D+1	R+6	+6.95	Solid Republican
14	CO-04	Cory Gardner (R)	R+6	R+12	+6.60	Solid Republican
15	CA-42	Ken Calvert (R)	R+6	R+12	+6.33	Solid Republican
16	SC-02	Joe Wilson (R)	R+9	R+14	+5.08	Solid Republican
17	FI-17	Tom Rooney (R)	R+5	R+10	+5.03	Solid Republican
18	IL-06	Peter Roskam (R)	EVEN	R+5	+5.03	Solid Republican
19	VA-11	Gerry Connolly (D)	D+2	D+7	+4.99	Solid Democratic
20	WA-08	Dave Reichert (R)	D+3	R+2	+4.84	Solid Republican
21	PA-06	Jim Gerlach (R)	D+4	R+1	+4.82	Likely Republican
22	IL-14	Randy Hultgren (R)	R+1	R+10	+4.69	Solid Republican
23	GA-08	Austin Scott (R)	R+10	R+15	+4.64	Solid Republican
24	WA-02	Rick Larsen (D)	D+3	D+8	+4.27	Solid Democratic
25	FL-10	Dan Webster (R)	R+2	R+7	+4.13	Lean Republican

*Denotes incumbent not currently seeking reelection

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25 Biggest Redistricting Swings Against the Incumbent Party

14 Democratic, 11 Republican

Rank	District	Incumbent	PVI Before	PVI After	Swing	Current Cook Rating
1	MD-06	Roscoe Bartlett (R)	R+13	D+2	-15.72	Likely Democratic
2	NC-13	Brad Miller (D)*	D+5	R+9	-14.55	Likely Republican
3	CA-31	Gary Miller (R)	R+10	D+2	-11.65	Solid Republican
4	NY-25	Louise Slaughter (D)	D+15	D+5	-10.68	Likely Republican
5	GA-12	John Barrow (D)	D+1	R+9	-10.57	Lean Republican
6	CA-03	John Garamendi (D)	D+11	D+1	-10.29	Likely Democratic
7	TX-14	Ron Paul (R)*	R+18	R+8	-9.83	Likely Republican
8	NC-08	Larry Kissell (D)	R+2	R+12	-9.49	Lean Republican
9	CA-24	Lois Capps (D)	D+12	D+3	-8.60	Lean Democratic
10	IL-13	Tim Johnson (R)*	R+6	D+1	-7.40	Toss Up
11	MI-09	Sander Levin (D)	D+12	D+5	-7.13	Solid Democratic
12	CO-06	Mike Coffman (R)	R+8	R+1	-6.92	Toss Up
13	IL-11	Judy Biggert (R)	R+1	D+5	-6.55	Toss Up
14	IL-08	Joe Walsh (R)	R+1	D+6	-6.42	Likely Democratic
15	CA-26	Elton Gallegly (R)*	R+4	D+2	-6.10	Toss Up
16	WA-01	Jay Inslee (D)*	D+9	D+3	-5.89	Lean Democratic
17	NC-11	Heath Shuler (D)*	R+6	R+12	-5.72	Likely Republican
18	NC-07	Mike McIntyre (D)	R+5	R+11	-5.46	Toss Up

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19	IL-03	Dan Lipinski (D)	D+11	D+5	-5.36	Solid Democratic
20	IN-02	Joe Donnelly (D)*	R+2	R+7	-4.70	Likely Republican
21	IA-04	Steve King (R)	R+9	R+4	-4.64	Lean Republican
22	CA-52	Brian Bilbray (R)	R+3	D+1	-4.28	Toss Up
23	CA-10	Jeff Denham (R)	R+9	R+5	-4.05	Toss Up
24	MA-04	Barney Frank (D)*	D+14	D+11	-3.69	Solid Democratic
25	NY-17	Nita Lowey (D)	D+9	D+5	-3.42	Solid Democratic

*Denotes incumbent not currently seeking reelection

***The Cook Political Report* Partisan Voter Index (PVI) Explained**

In August of 1997, *The Cook Political Report* introduced the Partisan Voting Index (PVI) as a means of providing a more accurate picture of the competitiveness of each of the 435 congressional districts. Using the 1992 and 1996 major-party Presidential voting results, the PVI measured how each congressional district performed compared to the nation as a whole.

Using the results of the 2004 and 2008 elections for newly drawn Congressional boundaries taking effect in 2012, we have updated these PVI scores and have even more information to draw upon to understand the congressional level trends and tilts that will help to define the elections in 2012 and beyond. We will update PVI scores again in 2013 to reflect the results of the 2012 presidential election.

Developed for *The Cook Political Report* by Polidata, the index is an attempt to find an objective measurement of each congressional district that allows comparisons between states and districts, thereby making it relevant in both mid-term and presidential election years.

While other data such as the results of senatorial, gubernatorial, congressional and other local races can help fine tune the exact partisan tilt of a particular district, those kinds of results don't allow a comparison of districts across state lines. Only presidential results allow for total comparability.

A Partisan Voting Index score of D+2, for example, means that in the 2004 and 2008 presidential elections, that district performed an average of two points more Democratic than the nation did as a whole, while an R+4 means the district performed four points more Republican than the national average. If a district performed within half a point of the national average in either direction, we assign it a score of EVEN.

To determine the national average for these latest ratings, we have taken the average Democratic share of the two-party presidential vote for 2004 and 2008, which is roughly 51.2 percent, and that of Republicans, which is roughly

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48.8 percent. So, if John Kerry captured 55 percent of the vote in a district and Barack Obama carried 57 percent in the district four years later, the district would have a PVI score of roughly D+5.

In addition to the charts above, we have listed the PVI score for every district on the House Race At-A-Glance chart and on each individual race page. It is important to remember that redistricting in 2012 made some significant changes to the congressional map that make it hard to compare current districts with their predecessors.

Notes About PVI Data & Methodology

Following each election and round of redistricting, presidential results are compiled to generate PVI scores for each congressional district. In a few states, these results are aggregated by district by state and/or local election authorities. However, in others they are not, and the reported election results do not account for some votes that are reported centrally and not redirected back to the voter's registration precinct.

Clark Benson of Polidata has offered both a detailed explanation of Polidata's methodology for allocating these votes and cautionary notes on the districts for which 2004 and 2008 raw vote totals are still under review. Recalculating presidential results by district following redistricting involves many judgment calls, and while this dataset reflects Polidata's best efforts, raw vote data are preliminary and subject to change upon further post-election review.

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McDonald Rebuttal Report

I have been asked by Plaintiffs in this action to address the expert reports authored by Dr. Allan Lichtman and Mr. William Cooper. I focus primarily on Dr. Lichtman's report, and have a few comments regarding Mr. Cooper's report.

At the outset of my initial report (McDonald p. 3), I stated that I have been asked by Plaintiffs to this action to address three questions. The three questions Plaintiffs asked me to address are:

1) Whether Maryland's 2011 Congressional Plan resulted in vote dilution that was sufficiently serious to produce a demonstrable and concrete adverse effect on a group of voters?
2) Whether the Maryland General Assembly or its mapmakers specifically intended to burden the representational rights of certain citizens because of how they voted in the past and the political party with which they had affiliated?
3) Whether the lines of the Sixth Congressional District would have been drawn as they were but for the map drawer's and General Assembly's consideration of partisan goals to the detriment of traditional redistricting principles?

For the most part, Dr. Lichtman does not criticize my analyses and conclusions I draw in responding to these three questions. In this reply report, I address Dr. Lichtman's critiques that with respect to these questions, and I show they do not undermine my conclusions.

Instead of responding directly to the three questions I answer, Dr. Lichtman appears to object to the questions themselves, which has an effect of distracting from a real debate regarding the questions I have been asked to evaluate. Plaintiffs have represented to me that their legal theory involves a First Amendment claim as to whether or not Maryland intentionally targeted Republicans residing in the Sixth Congressional District, as it was configured prior to the post-2010 redistricting, due to the political beliefs that they held at the time of the redistricting. I have not been tasked to judge the merits of this legal argument, nor is it my understanding that my role of expert witnesses is to draw legal conclusions in litigation. However, my education and professional experience allow me to draw conclusions that are relevant to these legal questions.

Dr. Lichtman reframes my analysis of the adverse effects the 2011 Maryland congressional redistricting plan on Republicans residing in the Sixth Congressional District to be in terms similar to partisan gerrymandering claims under the Equal Protection and Due Process Clauses. Specifically, he argues that the partisan effects of a redistricting plan as a whole must be analyzed. Doing so, he purports to show "…Maryland Democrats are generally at a statewide *disadvantage* in converting their votes to congressional house seats…" (Lichtman p. 6, original emphasis). On its face, this claim is highly suspect. Democratic 2012 congressional candidates won a combined 62.9% of Maryland's vote, and won seven of eight house seats, or 87.5%. Maryland Democrats thus won 24.6 percentage points more seats than might have been expected if seats had been awarded proportional to the vote; this outcome clearly advantages the Democrats. I show Dr. Lichtman's faulty conclusion is a consequence of his erroneous math and

incomplete analyses. When I apply the proper math to complete analyses, the adopted Maryland congressional redistricting plan is clearly a Democratic gerrymander.

When I correct for errors in Dr. Lichtman's partisan gerrymandering analyses of the congressional redistricting plan as a whole, his analyses of support my conclusion that Maryland Democrats intended to adversely affect Republicans residing in the prior Sixth Congressional District. Dr. Lichtman states that "CD6 [w]as the reasonable alternative" to improving Democrats' performance in the plan as a whole. (Lichtman p. 42). Dr. Lichtman's corrected partisan gerrymandering analyses show that Republicans are disadvantaged in the Maryland congressional plan as a whole. Maryland Democrats thus realized their partisan advantage in the plan as a whole by specifically targeting Republicans in the Sixth Congressional District since this was the only "reasonable alternative" for Democrats to seek such advantage.

I proceed to address Dr. Lichtman's criticisms of my analysis to these three question in turn, with the addition of clarifying points to some of his conclusions.

Question One: Did Vote Dilution of Republicans Occur?

Dr. Lichtman and I Agree Vote Dilution Occurred

Dr. Lichtman and I agree with respect to the first question that Maryland's 2011 Congressional Plan resulted in vote dilution that was sufficiently serious to produce a demonstrable and concrete adverse effect on a group of voters.

Dr. Lichtman states his first opinion in his report (Lichtman p. 2):

> I conclude that these reports establish only what is already the obvious: that the 2011 Maryland congressional redistricting plan improved Democratic prospects in Maryland's Congressional District 6 as compared to the prior redistricting plan.

Similarly, my first opinion on p. 3 of my initial report states:

> …the evidence is incontrovertible that Maryland's adopted Sixth Congressional District was drawn in a manner that has the effect of diminishing the ability of registered Republican voters to elect candidates of their choice compared to the previous, benchmark district.

The only difference between our opinions is a choice of words. Dr. Lichtman frames his opinion in terms of "improved Democratic prospects," while I frame it in terms of "diminishing the ability of registered Republican voters to elect candidates of their choice." Because these are inverse ways of saying the same thing, Dr. Lichtman and I are in agreement with respect to the obvious effect that Maryland's Sixth Congressional District was drawn in such a way to favor Democrats at the expense of Republicans.

My Vote Dilution Analysis

In my initial report, I establish that "I am thus highly confident within prevailing professional standards that registered Democrats in the Sixth Congressional District prefer Democratic candidates and registered Republicans prefer Republican candidates" (McDonald p. 9).

Dr. Lichtman criticizes my analysis, thusly (Lichtman p. 32):

> Unlike racial groups, there is no reliable way to identify partisan groups. Party registration or identification is a highly imperfect form of identification because party registration does not assure voting for the party in any given election.

In my voting rights experience, it is also true that racial and ethnic groups may not reliably vote for a particular candidate of choice. Indeed, in litigation involving New York's state Senate districts, I found Hispanics did not reliably cohesively vote with African-Americans to elect the African-American candidate of choice.[1] The exercise of conducting racial bloc voting analyses is to determine the degree of group cohesion in voting. The levels of a group voting "only 69 percent" (Lichtman p. 32) for a candidate are more than sufficient to establish bloc voting. Indeed, Dr. Lichtman agrees with me that fifty percent of the vote serves as a bright line when determining racial bloc voting when he draws conclusions from the fact that "Bartlett lost Washington County with 49.3% of the two-party vote" in the 2012 election (Lichtman p. 32).

Dr. Lichtman attempts to undermine my conclusion from my racial bloc voting analysis essentially rest on the assertion that Republicans can remedy the burdens that changes to the Sixth Congressional District's boundaries places upon them by "…chang[ing] their party affiliation" (Lichtman p. 32). I have two responses. First, Dr. Lichtman's partisan gerrymandering analyses (Lichtman pp. 5-11) assume stability of partisan voting. Dr. Lichtman's argument that Republicans or Democrats can simply change their party affiliations if district lines are drawn to adversely affect them arrives at the nonsensical conclusion that partisan gerrymandering never occurs. Second, Dr. Lichtman's rebuttal evidence on changing voting behavior of partisans consists primarily of an analysis of the change in the total votes from 2008 to 2012 within one county: Washington County. This selective evidence is woefully inadequate to establish how partisans voted within this one county or within Maryland's Sixth Congressional District as a whole, as I establish in my report by examining all the available evidence (McDonald pp. 7-9).

Dr. Lichtman's analysis of Washington County is drawn from Table 13 of his report (Lichtman p. 38), which reports 2012 election results for four Western Counties. He uses this evidence to assert that "…Delaney [the Democrat] was not elected with the votes of Montgomery County only, but, as indicated in Table 13, he also won Washington County and the parts of Frederick County included in CD6" (Lichtman p. 37). As vividly illustrated in my Figure Six (McDonald p. 23), Frederick County is clearly split along partisan lines. To use election results in a county clearly split along partisan lines as evidence of a lack of partisan gerrymandering is odd.

[1] *Rodriguez v. Pataki* 308 F. Supp. 2d 346 (S.D.N.Y 2004).

Although not clear, I believe Dr. Lichtman is responding to my summary conclusion that (McDonald p.17):

> Maryland's adopted Sixth Congressional District's geography and political composition are a clear result of a classic partisan gerrymandering strategy known as cracking. A district that was predominantly rural and Republican in character was transformed into a district where the political strength of Democratic suburbs of the Washington, D.C. suburbs outweighs the Republican rural areas, predominantly in the panhandle.

I am happy to clarify, which is clear from my discussion of the changes to the Sixth Congressional District (McDonald pp. 11-12), that the Sixth Congressional District retained Democratic pockets in Maryland's panhandle that also contributed to the "…major transformation from a predominantly Republican district to a predominantly Democratic district" (McDonald p. 11).

Dr. Lichtman's Attempt to Reframe Question One: His Partisan Gerrymandering Analyses

Dr. Lichtman's asserts the "…possible existence of a partisan gerrymander must be assessed by examining the plan as a whole" (Lichtman p. 3). To be clear, I was not asked by Plaintiffs to this action to evaluate partisan gerrymandering of the entire adopted Maryland congressional redistricting plan. I understand that the Plaintiffs' focus on the Sixth District alone is a function of their legal theory, the merits of which I am not in a position to judge (nor is Dr. Lichtman). My purpose in this section is to establish glaring deficiencies in Dr. Lichtman's computations and methodology that when analyzed properly reverse his opinion that "Maryland's 2011 Congressional Plan is Not a Partisan Gerrymander" (Lichtman p. 5).

Dr. Lichtman makes two mistakes in his partisan gerrymandering analyses. He misapplies a methodology I used in *Perez* v. *Perry*, a case regarding Texas congressional and legislative districts, and he miscalculates a newly proposed method to measure the degree of partisan gerrymandering known as the efficiency gap which he states is "relatively simple to compute" (Lichtman p. 9).

Correctly applying Dr. Lichtman's two tests for partisan gerrymandering of the entire plan, I conclude the entire adopted Maryland congressional plan is a Democratic gerrymander that disfavors Republicans.

Partisan Gerrymandering Analysis: *Perez* v. *Perry*

With respect to my methodology in *Perez* v. *Perry*, Dr. Lichtman correctly notes on page 5 of my report that my proposed methodology involves the following steps:

1) Calculate statewide election returns within districts. This requires the reaggregation of statewide results into each of the individual districts of a plan.
2) Calculate the average share of "two-party" vote across districts.

3) Compare the relationship between seats to votes at various average votes for the two major parties across the districts.

Dr. Lichtman omits that I evaluate the performance of the Texas redistricting plans at a specific average vote: the vote share the parties can expect to receive in a *typical election*.

It is important to consider how votes are translated into seats in a typical election if perfectly competitive elections of equal 50% vote shares for each of the two major parties rarely occur, if ever. Partisan bias measures constructed around 50% of the vote – which is Dr. Lichtman's approach – may fail to capture another important element in partisan gerrymandering: what is known as responsiveness, or the rate of change in votes a party receives compared to the rate of change in seats a party wins. When the opposition party rarely expects to win fifty percent of the vote, the gerrymandering party can engineer a large amount of responsiveness to garner an even a larger seat advantage over what they may enjoy by merely engineering partisan bias at 50% of the vote. Indeed, the gerrymandering party may trade off partisan bias favoring them at 50% for a high degree of responsiveness that is more than compensated at the expected vote share of a typical election.

To illustrate how the tradeoff between partisan bias and responsiveness works, consider a redistricting plan than has a partisan bias of 5% disfavoring the gerrymandering party at the hypothetical 50%/50% election. This plan also has a high degree of responsiveness, such that each percentage point change in the vote share yields two percent more seats for the gerrymandering party. If the typical election occurs with a 60%/40% vote share split favoring the gerrymandering party, the party can expect to win:

- -5% (for the partisan bias against them at 50%).
- +20% (for the 2% of seats expected in each 1% change in the vote).
- A total of -5% + 20% = +15% seat share in the typical election.

Maryland Democrats appear to have implemented a partisan gerrymandering strategy that relies primarily on a high degree of responsiveness, thereby favoring them in the typical election. I have previously encountered this strategy of using responsiveness to gerrymander in a state legislative plan proposed by Alaskan Republicans.[2] Thus, it is important to examine "various average votes" (Lichtman p. 5) including the typical election that takes place within a state or locality, and not just those at 50%/50%.

Dr. Lichtman's incomplete analysis involves two hypothetical atypical Maryland elections. In one hypothetical election he states: "If Republicans were to achieve a bare majority of 51 percent of the vote, according to Dr. McDonald's methodology they would win 63 percent of the seats" (Lichtman p. 6). In another the other hypothetical election he states "At 54 percent of the vote, under Maryland's 2011 congressional redistricting plan, Republicans win all six of the districts that are not majority-African American voting rights districts (CD4 and CD7)" (Lichtman p. 6).

[2] *In Re 2001 Redistricting Cases* (Case No. S-10504).

Dr. Lichtman then compares his statistics to those that I generated in Texas for *Perez* v. *Perry* in Table 2 of his report (Lichtman p. 8) for an atypical hypothetical 50%/50% Texas election. Texas Republicans engineered both favorable partisan bias and a high degree of responsiveness, so this is a false comparison.

Dr. Lichtman performs no analysis of the typical Maryland election that would fully inform his opinion if he had fully followed my methodology. Somehow Dr. Lichtman obtained statistics regarding atypical Texas elections from my report, while ignoring my analysis of typical elections.

Fortunately, Dr. Lichtman provides nearly all the information necessary to conduct a complete analysis of my *Perez* v. *Perry* methodology with respect to Maryland. In Table 1 on p. 7 of his report, he provides election results for seven statewide elections reported in the adopted congressional districts. The typical election in Maryland is provided by the average in the rightmost column of Table 1. The typical vote share Maryland Republicans can expect is 39.1%, not 51% or 54%. Indeed, the typical vote shares presented in Table 1 may be actually lower since these statistics exclude "absentee and provisional votes (fewer than 10 percent of votes cast)" (Lichtman p. 6, footnote 11); these votes tend to break in a Democratic direction in Maryland.[3] In a typical Maryland election, Dr. Lichtman's data show Republicans receive a majority of the vote in only the First Congressional District. Therefore Republicans can expect to win one of eight congressional districts, or 12.5% of the seats, in a typical Maryland election. Since this is less than 39.1% by 26.6 percentage points, I conclude that Maryland's 2011 congressional redistricting plan is a partisan gerrymander.

Contrary to Dr. Lichtman's assertion that "Democrats are generally at a statewide disadvantage in converting their votes to congressional house seats" (Lichtman p. 6), I conclude that by applying my entire *Perez* v. *Perry* methodology it is Republicans who are disadvantaged in typical Maryland elections, not through the partisan bias that Dr. Lichtman investigates only, but through a high degree of responsiveness.

Partisan Gerrymandering: Efficiency Gap

With respect to Dr. Lichtman's efficiency gap analysis, he clearly makes calculation errors that result in his erroneous conclusion that the adopted Maryland congressional plan "translates into *an efficiency gap of 8.0 percent disfavoring Democrats*" (p. 10, original emphasis).

Dr. Lichtman did not provide the underlying computations for his work, so I will address each step leading to the final computation of the efficiency gap for Maryland's 2012 House elections. To also be clear, I do not endorse the efficiency gap, as I believe there are several flaws to it. Still, the correct efficiency gap computation reveals the adopted congressional plan favors the Democrats, not the Republicans.

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[3] For example, in the 2012 presidential election, Mitt Romney received 971,869 of the statewide vote out of 2,649,713 of the combined Democratic and Republican "two-party" vote. This yields a statewide Republican two-party vote share of 36.7%, but Dr. Lichtman reports Romney received a higher 37.0% of the vote in the first column of Table 1 in his report (p. 7). This discrepancy is consistent with the excluded absentee and provision ballots breaking in a Democratic direction.

Name	Party	Total Vote	Percentage
CD 1			
Wendy Rosen	Democratic	92,812	27.5%
Andy Harris	Republican	214,204	63.4%
Muir Wayne Boda	Libertarian	12,857	3.8%
John LaFerla (Write-In)	Democratic	14,858	4.4%
Michael Calpino (Write-In)	Unaffiliated	71	0.0%
Douglas Dryden Rae (Write-In)	Unaffiliated	26	0.0%
Other Write-Ins	N/A	2,932	0.9%
Total		337,760	
CD 2			
C. A. Dutch Ruppersberger	Democratic	194,088	65.6%
Nancy C. Jacobs	Republican	92,071	31.1%
Leo Wayne Dymowski	Libertarian	9,344	3.2%
Ray Bly (Write-In)	Republican	22	0.0%
Other Write-Ins	N/A	415	0.1%
Total		295,940	
CD 3			
John Sarbanes	Democratic	213,747	66.8%
Eric Delano Knowles	Republican	94,549	29.6%
Paul W. Drgos, Jr.	Libertarian	11,028	3.4%
Other Write-Ins	N/A	535	0.2%
Total		319,859	
CD 4			
Donna F. Edwards	Democratic	240,385	77.2%
Faith M. Loudon	Republican	64,560	20.7%
Scott Soffen	Libertarian	6,204	2.0%
Other Write-Ins	N/A	363	0.1%
Total		311,512	
CD 5			
Steny H. Hoyer	Democratic	238,618	69.4%
Tony O'Donnell	Republican	95,271	27.7%
Arvin Vohra	Libertarian	4,503	1.3%
Bob Auerbach	Green	5,040	1.5%
Other Write-Ins	N/A	388	0.1%
Total		343,820	
CD 6			
John Delaney	Democratic	181,921	58.8%
Roscoe G. Bartlett	Republican	117,313	37.9%
Nickolaus Mueller	Libertarian	9,916	3.2%
Other Write-Ins	N/A	399	0.1%
Total		309,549	

Name	Party	Total Vote	Percentage
CD 7			
Elijah Cummings	Democratic	247,770	76.5%
Frank C. Mirabile	Republican	67,405	20.8%
Ronald M. Owens-Bey	Libertarian	8,211	2.5%
Ty Glen Busch (Write-In)	Democratic	10	0.0%
Charles U. Smith (Write-In)	Democratic	28	0.0%
Other Write-Ins	N/A	394	0.1%
Total		323,818	
CD 8			
Chris Van Hollen	Democratic	217,531	63.4%
Ken Timmerman	Republican	113,033	32.9%
Mark Grannis	Libertarian	7,235	2.1%
George Gluck	Green	5,064	1.5%
Other Write-Ins	N/A	393	0.1%
Total		343,256	
All			
	Democratic	1,626,872	62.9%
	Republican	858,406	33.2%
	All	2,585,514	

Table 1. 2012 Maryland Congressional Results

I start with the 2012 election results from the Maryland State Board of Elections, reported in Table 1, that Dr. Lichtman identifies as his data source.[4]

Dr. Lichtman describes his steps to compute the efficiency gap as follows (Lichtman p. 9):

1) Sum for each party the number of votes cast for losing candidates in each district.
2) Sum for each party the number of votes cast for winning candidates in excess of 50%.
3) Add together these two sums to obtain the total number of wasted votes for each party.
4) Subtract the total number of wasted votes for the party controlling the redistricting from the total number of wasted votes for the second party.
5) A positive result indicates that the plan disadvantages the second party, e.g., that it has more wasted votes. A negative result indicates that the plan disadvantages the redistricting party, i.e., that it has more wasted votes.
6) Divide the result by the total number of votes cast to obtain the net percentage of wasted votes for the disadvantaged party.

[4] http://www.elections.state.md.us/elections/2012/results/general/gen_results_2012_4_008X.html.

7) This final percentage measure represents the efficiency gap.

I am confronted by two undocumented choices which Dr. Lichtman uses to choose candidates to include in his analysis.

First, in some districts partisan write-in candidates ran in the election, who received a combined total of 14,918 votes. Dr. Lichtman does not describe how he treated these candidates. Strictly following Dr. Lichtman's described procedure, I include these candidates in the vote totals for a party within each district and allocate them accordingly if the party won or lost the district. I also report statistics excluding these candidates.

Second, Dr. Lichtman does not describe how he treats Libertarian, Green and non-party affiliated write-in candidates. I follow Stephanopoulos and McGhee who exclude these candidates to compute what is commonly known as the "two-party" vote between Democratic and Republican candidates.

Following these rules, I compute a total of 2,500,196 votes for Democratic and Republican candidates. This is 17,509 more than the 2,482,687 total candidate votes Dr. Lichtman reports in Table of his report (Lichtman p. 11). This difference is close to the partisan write-in candidates combined total of 14,918 votes, but not exact.

Before I compute the efficiency gap computations, it is instructive to note that Maryland Republicans candidates received a combined 33.2% of all Democratic and Republican votes in the 2012 Maryland congressional elections, but won only one seat, or 12.5% of the seats (see candidate totals in Table 1). Dr. Lichtman's opinion that Democrats are disadvantaged by these election results should strike even a casual observer as implausible.

I calculate the efficiency gap in Table 2, presenting all intermediary steps.

In the first column of Table 2 I compute the minimum votes needed to win. For example, in the First Congressional District, there were 321,874 votes for all candidates, after excluding minor party and unaffiliated write-in candidates. The minimum votes needed to win is (321,874 / 2) + 1 = 160,938. (One vote is added since otherwise there would be a tie.)

In column two is the total votes of all Democratic candidates if a Democrat won the district. In column three is the difference between column three and column two. This represents the wasted votes for the Democrats in excess of what they needed to barely win the district (Dr. Lichtman's Step 2). In the Second District this value is 194,088 – 143,091 = 50,997. In column four the votes for all Democratic candidates if a Republican won the district (Dr. Lichtman's Step 1). These computations are repeated for the Republicans in columns five, six, and seven, respectively.

The grayed areas represent the sum of the wasted votes for each party (Dr. Lichtman's Step 3). For Democrats, this is the sum of the votes reported in columns three and four, and for Republicans the sum in columns six and seven. I compute the total wasted votes for the Democrats – the party controlling the redistricting - is 552,602 and the total wasted votes for the Republicans – the second party - is 697,490.

	Min. Votes Needed to Win	Dem. Votes (If Win)	Excess Votes of Needed to Win	Dem. Votes (If Loss)	Rep. Votes (If Win)	Excess Votes of Needed to Win	Rep. Votes (If Loss)
CD 1	160,938		[redacted]		214,204	[redacted]	
CD 2	143,091	194,088					
CD 3	154,149	213,747					
CD 4	152,473	240,385					
CD 5	166,946	238,618					
CD 6	149,618	181,921					
CD 7	157,607	247,808					
CD 8	165,283	217,531					
Total Wasted Votes							
Differential Wasted Votes							144,888
Efficiency Gap							5.8%

Table 2. Efficiency Gap Computations

Subtracting the wasted votes from the party that controls the redistricting from the second party yields 697,490 – 552,602 – 144,888 (Dr. Lichtman's Step 4). Since this is a positive number, the Republicans – as the second party – have more wasted votes than the Democrats (Dr. Lichtman's Step 5). Dividing this by the total number of votes of 2,500,196, I calculate the efficiency gap as 5.8%. (Note, if I exclude the partisan write-in candidates, the efficacy gap is a larger 6.7% disfavoring the Republicans.)

Dr. Lichtman computes the total wasted votes for the Democrats is 985,261 and for the Republicans is 763,002, for a total difference of 222,259 disfavoring the Democrats (Lichtman Table 3, p. 11). The discrepancy with my calculations apparently arises in Dr. Lichtman's computation of the wasted votes for the winning candidate (Dr. Lichtman's Step 2). If instead of subtracting the winning candidate's vote total from the minimum needed to win the district, as the efficiency gap formula requires, I subtract the winning party candidate(s) from the second place party candidate(s), I arrive at 997,544 wasted votes for the Democrats and 750,758 wasted votes for the Republicans. If I exclude the major party write-in candidates, I compute 982,670 wasted Democratic votes and 765,594 wasted Republican votes.

Although I cannot precisely reproduce Dr. Lichtman's numbers because he did not provide the full information to do so, I am confident through my forensics work that Dr. Lichtman made a fatal error in a computation of the efficiency gap that he describes as "relatively simple to compute" (Lichtman p. 9). Most likely this error lies in the improper computation of the wasted votes for the party that won a district. Where he computes "*…an efficiency gap of 8.0 percent*

disfavoring Democrats" (Lichtman p. 10, original emphasis), I compute either a 5.8% or 6.7% efficiency gap disfavoring the Republicans.

Summary of Dr. Lichtman's Partisan Gerrymandering Analyses

Dr. Lichtman employs two methods to assess if the Maryland congressional redistricting plan is a partisan gerrymander. Neither method supports Dr. Lichtman's conclusion that "…Maryland's 2011 congressional redistricting plan was not a partisan gerrymander" (Lichtman p. 52). Indeed, correct computation and interpretation of both methods reveal that the Maryland 2011 congressional redistricting plan is a Democratic gerrymander (though, again, this was not a question I was initially asked to answer).

1) With respect to the method I used in *Perez* v. *Perry*, Dr. Lichtman fails to evaluate the effect of the redistricting plan for the typical Maryland election, instead focusing on atypical elections where Republican congressional candidates receive 50% or 54% of the vote. Dr. Lichtman provides no evidence that Republicans could typically expect such favorable results. When evaluated at the typical election, 39.1% Republican vote, Republican candidates win only one of eight districts, or 12.5% of the seats. Since 12.5% is 26.6 points less than 39.1%, I conclude, as a recognized expert in the evaluation of partisan gerrymandering claims, that the 2011 Maryland congressional plan is a Democratic gerrymander.
2) With respect to Dr. Lichtman's efficiency gap analysis, my forensics analysis indicates that Dr. Lichtman made an incorrect calculation for the wasted votes of the winning candidate by subtracting the second place candidate from the winning candidate. This error led him to compute an efficiency gap of 8.0 percentage points disfavoring the Democrats. When I make the correct calculation by subtracting the minimum necessary to win the election from the winning candidate's vote share, I arrive at an efficiency gap of 5.8 points disfavoring the Republicans (or 6.7 if I exclude partisan write-in candidates).

Question Two: Did Maryland Specifically Intended to Burden Republicans' Rights?

The second question Plaintiff's to this action asked me to address is whether the Maryland General Assembly or its mapmakers specifically intended to burden the representational rights of certain citizens because of how they voted in the past and the political party with which they had affiliated? Through an analysis of the changes to the Sixth Congressional District and its only neighbor, the Eight Congressional District (McDonald pp. 11-16), I conclude "…that politics, not good government goals, was a major motivating factor behind the creation of the adopted Sixth Congressional District" (McDonald p. 17).

Dr. Lichtman States Maryland Democrats Did Gerrymander

Dr. Lichtman contradicts his faulty analysis that Maryland Democrats created a Republican gerrymander elsewhere in his report.

As noted at the outset of my rebuttal, Dr. Lichtman's first opinion in his report is that "…I conclude that these reports establish only what is already the obvious: that the 2011 Maryland congressional redistricting plan improved Democratic prospects in Maryland's Congressional District 6 as compared to the prior redistricting plan" (Lichtman p. 2).

Dr. Lichtman reaffirms this opinion that a goal of Maryland's Democrats was to execute a gerrymander of equal efficacy as similarly situated party-controlled states (Lichtman p. 44):

> After the 2011 redistricting Maryland was in line with other party-dominated states. As indicated in Table 18, Maryland's percentage of the two-party presidential vote was about comparable to other states; so too was its percentage of seats held by the dominant party as compared to other states.

Dr. Lichtman then excuses Maryland Democrats for partisan gerrymandering because the Republicans did it elsewhere (Lichtman p. 48):

> To offset the large Republican advantage in more heavily populated, and in many cases, competitive states, with significant consequences for representation in Congress, it was reasonable for the Maryland legislature to make CD6 into a more competitive district for Democrats.

Dr. Lichtman thus admits that, despite his faulty partisan gerrymandering analyses, Maryland Democrats intended to burden the rights of Republicans residing in the Sixth Congressional District, since according to Dr. Lichtman, Democrats views "CD6 as the reasonable alternative" (Lichtman p. 42) to improving their performance in the plan as a whole.

District Competitiveness

There is a logical inconsistency in Dr. Lichtman's two prior quotes. In the first quote, Dr. Lichtman implies that it was the goal of Maryland Democrats to elect an additional Democrat to the House of Representatives to bring the partisan composition of Maryland's congressional delegation in line with other similar party-dominated states. In the second quote, he opines that the goal was merely to make "a more competitive district for Democrats" (Lichtman p.48).

As Dr. Lichtman notes, I have written extensively on district competition. I further served as a consultant to the Arizona Independent Redistricting Commission to analyze compliance of the commission with the Arizona constitutional mandate for competitive districts. I have never heard a competitive district described as being *for* a political party. Competitive districts are those where either major party has an equal chance of electing their candidate.

Dr. Lichtman's apparent confusion regarding whether or not the Sixth Congressional District was designed to elect a Democrat or "emerges as competitive" (Lichtman p. 36) lies in faulty analysis.

To begin, Dr. Lichtman alleges that I endorse a "'competitive' range of 45 to 55 percent" to define a competitive district (Lichtman p.36). Since Dr. Lichtman does not provide a quote to this citation, I will do so:

> …a normalized presidential vote within two competitiveness ranges, 45-55 and 48-52 percent, are presented in figure 10-1…[t]he wider 45-55 range is presented since it is commonly used to describe competitive congressional elections; *however, my analysis of the relationship between competitive districts and competitive elections suggests that the tighter range is a more valid definition of a competitive district* (emphasis added).[5]

In the footnote to this paragraph, I note that my methodology is based on my work for the 2001 Arizona Independent Redistricting Commission, and I have written extensively about this methodology elsewhere.[6] It is clear from my quote that I am presenting a 45-55 range as a matter of convenience for an audience familiar with this range, when in truth I endorse a tighter 48-52 range to identify when a district is competitive informed by my practical work as a redistricting consultant and my academic scholarship.

A short digression on terminology is needed, as it is can be confusing. *Competitive district* refers to the underlying partisanship of the district, as is typically evaluated as the level of partisanship through statewide election results aggregated within a district, similar to his Table 1 (Lichtman p. 7) and my Table Three (McDonald p. 10). *Competitive election* refers to the realized election for a district. A statistical analysis is needed to determine the level of partisanship needed for a district to be competitive, such that it will produce a competitive election. These two concepts may not necessarily be the same since statewide offices can have different voting patterns than district elections.

Dr. Lichtman has not performed a statistical analysis to determine the underlying level of partisanship needed within District Six to reliably produce competitive elections, as I employed in my Arizona work or recommend in my academic writing. If I apply the tighter 48-52 range that I generally believe is more valid, absent such a statistical analysis, to the 47.1% average Republican vote share for District Six that Dr. Lichtman presents in Table 1, I conclude that District Six is not competitive. Thus, Dr. Lichtman's following assertion is incorrect (Lichtman p. 36):

> The average Republican vote across all statewide elections held in this district from 2012 to 2016 is 47 percent (Table 1), which places it within Dr. McDonald's "competitive" range of 45 to 55 percent.

Dr. Lichtman also cites the 2012 Cook Political Report, which rates the Sixth District as +2 Democratic, which would place it on the cusp of what I consider to be a competitive district. Following the 2016 election, the Cook Political Report rates the Sixth Congressional District as

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[5] Michael P. McDonald. 2006. "Redistricting and Competitive Districts" in *The Marketplace of Democracy: Electoral Competition and American Politics*, Michael P. McDonald and John Samples, eds. Washington, DC: Brookings Press, p. 224.

[6] Michael P. McDonald. 2006. "Drawing the Line on District Competition." *PS: Political Science and Politics* 39(1): 91-94.

+4 Democratic.[7] The most recent Cook Political Report rating does not support Dr. Lichtman's conclusion that the Sixth Congressional District is competitive.

Dr. Lichtman further engages in a "normalization" of vote shares. This is a technique academics use to consider what would happen in a hypothetical 50%/50% election. This computation is used by academics to make presidential elections – which tend to be highly competitive nationally – comparable when they are comparing statistics computed from different presidential elections. However, this computation suffers the same issues that I noted previously with respect to the *Perez* v. *Perry* partisan gerrymander methodology in that it does not consider what happens in a typical election. In subsequent state-specific publications to my 2006 book chapter cited by Dr. Lichtman, I do not normalize vote shares to compute the competitiveness of districts.[8] Still, even using normalized vote shares, Dr. Lichtman computes a 2012 normalized presidential vote of 52.7% and a 2016 normalized presidential vote of 54.5% (Lichtman p. 36), neither of which fall within the 48-52 range.

Dr. Lichtman's opinion that the Sixth Congressional District is competitive thus rests on three elections: the 2014 Governor election, the 2014 Attorney General election, and the 2014 U.S. House election. However, Dr. Lichtman ignores all the data available to him. In seven of ten elections within the district, the Democratic candidate won decisively. The average seven statewide election results within a district – which is the preferred measure of the partisan character of a district – Dr. Lichtman computes that the Republican candidate received 47.1% of the vote within the Sixth Congressional District. This is outside the 48-52 range I deem most appropriate to identify a competitive district.

It is therefore my opinion, applying methodology consistent with my prior work, that the Sixth Congressional District is not a competitive district. My opinion is most consistent with Dr. Lichtman's assertion that Maryland's Democrats intended to bring the partisan balance of Maryland's congressional delegation "…in line with other party-dominated states" (Lichtman p. 44).

Reducing Democratic Wasted Votes

Dr. Lichtman proposes that another alternative explanation for the reconfiguring of the Sixth Congressional District was to "unpack[] CD8" (Lichtman p. 42). This is just another way of stating that Maryland Democrats wished to adversely affect Republicans in the Sixth District.

Dr. Lichtman states notes that "CD8 under the 2001 redistricting plan was an overwhelmingly packed district" (Lichtman p. 42) and that "…CD6 [w]as the reasonable alternative for unpacking CD8 and the 2011 redistricting plan did precisely that" (Lichtman p. 42).

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[7] http://cookpolitical.com/file/2013-04-49.pdf.

[8] Micah Altman and Michael P. McDonald. 2013. "A Half-Century of Virginia Redistricting Battles: Shifting from Rural Malapportionment to Voting Rights and Participation." *University of Richmond Law Review* 47: 771-831; Micah Altman and Michael P. McDonald. 2015. "Paradoxes of Political Reform: Congressional Redistricting in Florida" in *Jigsaw Puzzle Politics in the Sunshine State*, Seth C. McKee, ed. Gainesville, FL: University of Florida Press; Micah Altman and Michael P. McDonald. Forthcoming. "Redistricting by Formula: The Case of Ohio." *American Politics Research*.

If there are trades to be made between two districts, one Democratic in character and one Republican, then the only way to reduce Democratic wasted votes is for Democrats to win both districts. Merely trading Democrats from one district to another without changing the election outcome in the target district is insufficient, since the overall same number of Democratic votes are wasted if the election outcome does not change.

To illustrate, suppose there are 80,000 wasted Democratic voters over what was needed to win the district in the Eight Congressional District and Democrats are 60,000 voters in the Sixth District, which these voters cannot elect their preferred candidate. This yields a total of 140,000 wasted votes. If 20,000 Democratic voters are shifted from the Eighth District to the Sixth District, then there are now 60,000 wasted Democratic voters in the Eighth District and, assuming Democrats continue to be unable to elect their preferred candidate, there are 80,000 wasted votes in the Sixth District, yielding the same 140,000 wasted votes. It is only in the case that the Democrats' preferred candidate wins the Sixth District that their wasted votes decreases. (As a corollary, the Republican wasted votes would increase significantly in the case that their preferred candidate wins neither district, where before their candidate won one.)

It is not surprising that Dr. Lichtman does not understand this dynamic since his failure to compute correctly the efficiency gap appears to have a similar logical error, as noted above.

Question Three: Does the Sixth Congressional District Respect Traditional Redistricting Principles?

Dr. Lichtman Falsely Claims I Examined the Sixth District in Isolation

Dr. Lichtman criticizes me for examining "only one of eight congressional districts" (Lichtman p. 3) while failing to examine the congressional redistricting plan as a whole. To reinforce this critique Dr. Lichtman references a statement by myself, adding his emphasis to it, that "…you really can't look at one district in isolation…" (Lichtman p. 3).

I did not examine the Sixth Congressional District in isolation. Maryland's Sixth Congressional District has an unusual feature in that it is entirely bordered by the Eight Congressional District. As a consequence, it is possible to examine the Sixth and Eighth Congressional Districts together, but otherwise in isolation from the remainder of the redistricting plan. Dr. Lichtman is thus incorrect in stating "The creation of the alternative district would also change the adopted plan beyond CD6 and CD8, since moving counties and precincts out of adopted CD6 would ripple across the state in the adopted plan" (Lichtman p. 40). Indeed, I propose and analyze an alternative congressional redistricting plan that makes changes to only the Sixth and Eighth congressional districts (McDonald pp. 14-16).

These subsequent concerns about my alternative plan that Dr. Lichtman lists therefore do not apply to my analysis (Lichtman p. 40):

> Dr. McDonald gave no assurance that the proposed district would respect the legitimate redistricting goals of other areas of the state, such as respecting the non-retrogression mandate of § 2 of the Voting Rights Act in Districts 4 and 7;

> disallowing a crossing of the Chesapeake Bay; ensuring that District 2 continued to contain all major military installations in Maryland; ensuring all incumbents continued to reside in their district; and ensuring precise mathematical population equality.

While these concerns do not apply to the alternative map presented in my report, Dr. Lichtman's concerns do apply to Mr. Cooper's "Hypothetical 8-0 Plan" since this plan is a complete reconfiguration of the entire Maryland plan. Mr. Cooper nowhere in his report addresses these concerns, except to note that he "did not take the step to zero out the districts (from .23% overall deviation) in order to achieve perfect population equality" (Cooper p. 5).

Indeed, I have a further concern regarding Mr. Cooper's work. In my work of drawing an alternative map, I discovered that the Ansolabehere and Rodden election data used by Mr. Cooper (Cooper p. 4) fabricates Montgomery County election results. The issue appears to be, as far as I can determine, that Montgomery County split precincts between the time these scholars obtained the election results and when Maryland transmitted precinct boundaries to the Census Bureau for inclusion in the 2010 census geography. This caused some precincts to have no associated election results. To resolve this issue, these scholars appear to have simply cut and pasted the same election results into both portions of the split precincts, effectively doubling the votes. For all of the Montgomery precincts I list (McDonald p. 27), there are identical election results for an adjacent precinct. I cannot know from the information provided to me how deeply this issue affects Mr. Cooper's work. I also do not know the degree to which this issue is present in other Maryland counties outside those containing the Sixth District in part.

Compactness

Dr. Lichtman wishes to undermine my assessment that my proposed alternative redistricting plan for the Sixth and Eight congressional districts improves upon the adopted district in terms of compactness. He notes that I have "…criticized the use of compactness criteria…" (Lichtman p. 40), and that I have noted there are over fifty "compactness measures, which have not resulted in clarity, since these measures conflict and can be manipulated" (Lichtman p. 35). If Dr. Lichtman believes that I have manipulated my compactness analyses by cherry-picking measures I choose to present, it is incumbent upon him to present such evidence. However, Prof. Lichtman presents no evidence or analysis regarding the compactness any district.

Arlington Heights

Dr. Lichtman (p. 40) faults me for not following the legal standard in *Village of Arlington Heights* v. *Metropolitan Housing Development Corp.*, 429 U.S. 252 (1977). Plaintiffs to this action did not ask me to examine these *Arlington Heights* factors. Instead, they asked me to provide analysis pertinent to the three questions set forth in my Initial Report and this report. I offer no opinion as to whether or not they apply to the matters in this case.

Exposition Error in My Report

Dr. Lichtman points out that I misstated that the Maryland State Board of Elections only releases publicly in-person early votes at the precinct level. In fact, the Board of Elections only

publicly releases Election Day votes. However, this error in exposition does not affect any of my computations. Indeed, the statistics reported for the Sixth Congressional District in Table 3 of my initial report (McDonald p. 10) and his statistics in Table 1 of his report (Lichtman p. 7) are substantially similar. There are two differences that do not substantially affect our conclusions:

1) Dr. Lichtman's statistics include a special tabulation of the in-person early vote from the State Board of Elections (Lichtman footnote 11, p. 6), while I do so by tabulating the total county votes for counties entirely contained in a district and by apportioning these votes from the country data in counties split by more than one district.
2) Dr. Lichtman does not include absentee or provisional votes, which constitute "fewer than ten percent of votes cast" (Lichtman footnote 11, p. 6), while I do include these votes. I do so by tabulating the total county votes for counties entirely contained in a district (something Dr. Lichtman could have also done to check his implied claim of minimal effect from excluding these votes) and by apportioning these votes from the country data in counties split by more than one district.

Summary

In my initial report, I focused on three questions that Plaintiffs tasked me with answering:

1) Whether Maryland's 2011 Congressional Plan resulted in vote dilution that was sufficiently serious to produce a demonstrable and concrete adverse effect on a group of voters?
2) Whether the Maryland General Assembly or its mapmakers specifically intended to burden the representational rights of certain citizens because of how they voted in the past and the political party with which they had affiliated?
3) Whether the lines of the Sixth Congressional District would have been drawn as they were but for the map drawer's and General Assembly's consideration of partisan goals to the detriment of traditional redistricting principles?

Most of Dr. Lichtman's criticisms do not relate to the analysis and conclusions that I draw regarding these three questions. Instead, he criticizes me for confining my analysis to these questions.

Beyond these three questions, Dr. Lichtman makes three errors in analyses of election results that undermine his conclusions:

1) In an analysis of partisan gerrymandering following a method I used in *Perez* v. *Perry*, Dr. Lichtman fails to consider the effect of Maryland's redistricting plan for typical elections in the state. When I do so, I conclude that Maryland Democrats executed a Democratic gerrymander.
2) In an analysis of partisan gerrymandering using a method known as the efficiency gap, Dr. Lichtman makes a critical math error that leads him to falsely conclude that the adopted congressional plan favors the Republicans when it favors the Democrats.
3) In an analysis of competitive districts, Dr. Lichtman uses the wrong range of what I believe constitutes a competitive district, leading him to falsely conclude the Sixth

Congressional District has an equal chance of electing a Democrat or a Republican candidate.

Together, correction of these errors leads me to concur with Dr. Lichtman that "2011 Maryland congressional redistricting plan improved Democratic prospects in Maryland's Congressional District 6 as compared to the prior redistricting plan" (Lichtman p. 2). I further concur with him that a goal of Maryland Democrats was to execute a gerrymander of equal efficacy "…in line with other party-dominated states" (Lichtman p. 44).

After reviewing Dr. Lichtman's report and correcting his analyses, it remains my opinion that the adopted Sixth Congressional District has a concrete and adverse effect on Republicans residing in the district, that Maryland Democrats intended this outcome, and that this partisan goal superseded respect of traditional redistricting principles in the creation of the adopted Sixth Congressional District.

Date: May 22, 2017

Prof. Michael P. McDonald, PhD

Subject: Re:
From: jason.gleason03@gmail.com
Date: 10/3/2011 2:59 PM
To: "Brian Romick" <brianromick@gmail.com>

I hope so. I'm not sure I buy the themes they are selling. Hopefully they have some better ones for the public face of it.
------Original Message------
From: Brian Romick
To: Jason Gleason
Subject: Re:
Sent: Oct 3, 2011 2:57 PM

Jeanne is good on the politicel message

On 10/3/11, jason.gleason03@gmail.com <jason.gleason03@gmail.com> wrote:
> This is painful to watch. I'm not sure what purpose this presentation is serving.
> Sent from my Verizon Wireless BlackBerry

Sent from my Verizon Wireless BlackBerry

IN THE UNITED STATES DISTRICT COURT FOR THE UNITED STATES DISTRICT COURT FOR MARYLAND

O. JOHN BENISEK, et al., Plaintiffs, v. LINDA H. LAMONE, et al.,, Defendants.	Civil Case No.: 13-3233

DECLARATION OF WILLIAM S. COOPER

WILLIAM S. COOPER, acting in accordance with 28 U.S.C. § 1746, Federal Rules of Civil Procedure 26(a)(2)(B) and 26(e), and Federal Rules of Evidence 702 and 703, does hereby declare and say:

1. My name is William S. Cooper. I have a B.A. in Economics from Davidson College. As a private consultant, I serve as a demographic and redistricting expert for the Plaintiffs. I am compensated at a rate of $150 per hour.

I. Redistricting Experience

2. I have testified at trial as an expert witness on redistricting and demographics in federal courts in over 35 voting rights cases since the late 1980s. Approximately 30 of the cases led to changes in local or state election district plans.

3. Since the release of the 2010 Census, I have developed several statewide legislative plans (Alabama, Georgia, Kentucky, Florida, South Carolina, Texas, and Virginia) and over 150 local redistricting plans (including about 10 in Maryland) – primarily for groups working to protect minority voting rights.

4. Four plans that I developed for local government clients in Virginia and Mississippi were adopted in the early 2010s. I also served as a redistricting consultant in 2011 to the Miami-Dade County Commission and Board of Education. I currently serve as a redistricting consultant to the City of Wenatchee, Washington.

5. For additional historical information on my testimony as an expert witness and experience preparing and assessing proposed redistricting maps for Section 2 litigation and other efforts to promote compliance with the Voting Rights Act, see a summary of my redistricting work attached as **Exhibit A**.

II. Purpose of Declaration

6. The attorneys for the Defendants in this case asked me to complete two tasks: (1) Develop a hypothetical Congressional plan for Maryland so that all eight districts have a Democratic majority (without changing current CD 6), using information that was available in 2011. (2) Analyze population shifts involving current CD 1 – specifically relating to Anne Arundel County and the CD 6 portion of Harford, Baltimore, and Carroll Counties under the 2002 Plan.

III. Methodology and Sources

7. For my analysis, I used a geographic information system (GIS) software package called *Maptitude for Redistricting*, developed by the Caliper Corporation. This software is deployed by many local and state governing bodies across the country for redistricting and other types of demographic analysis.

8. I used the *2010 Adjusted Block Level Data* file for Maryland legislative redistricting pursuant to the *No Representation Without Population Act*.[1] This special dataset was prepared by the State to adjust the population count in order to take into account the home addresses of the incarcerated resident Maryland population. The block file is available for download at: http://www.mdp.state.md.us/redistricting/2010/dataDownload.shtml

9. I obtained the block equivalency file for the 2011 Plan from the above website. For the 2002 Plan boundaries in effect until 2011, I created a block equivalency file from the 2010 *Maryland PL 94-171* file published by the U.S. Census Bureau.[2]

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[1] See: http://www.mdp.state.md.us/redistricting/2010/newLaw.shtml

[2] The PL 94-171 data file is released in electronic format and is the complete count population file designed by the Census Bureau for use in legislative redistricting. The block level dataset is available for download at: http://www2.census.gov/census_2010/01-Redistricting_File--PL_94-171/Maryland/

10. I imported the block equivalency files for the 2002 and 2011 plans into a block-level geographic database and created Congressional district boundaries for both plans using *Maptitude for Redistricting*.

11. To determine the percentage of the Democratic and Republican vote in the 2008 Presidential contest by Congressional district, I used a file with precinct-level election data prepared by researchers associated with the Harvard Election Data Archive.[3] The file with Maryland election results is available for download at: http://projects.iq.harvard.edu/eda/data

12. In order to account for split precincts, I imported the Harvard election dataset into *Maptitude for Redistricting* and disaggregated the 2008 precinct-level election results to the block level (based on 2010 voting age population).

13. I also used a GIS shapefile depicting the 2011 home addresses of the eight incumbent members of the Maryland Congressional delegation, prepared by the State of Maryland.

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[3] Source: Stephen Ansolabehere; Jonathan Rodden, 2011, "Maryland Data Files", http://hdl.handle.net/1902.1/15549 V3 [Version]

IV. Hypothetical 8-0 Congressional Plan

14. As requested by the attorneys for the Defendants, I developed a hypothetical Congressional plan ("8-0 Plan") with eight Democratic districts. No incumbents are paired in this plan. **Exhibits B-1, B-2,** and **B-3** provide maps and a statistical summary depicting the 8-0 Plan.

15. Under the 8-0 Plan, hypothetical District 6 is identical to CD 6 under the 2011 Plan. In the 2008 Presidential contest, the eight districts range from a low of 52.5% Democratic in District 2 to a high of 79% Democratic in District 4.

16. Finally, because the 8-0 Plan is hypothetical, I did not take the step to zero out the districts (from .23% overall deviation) in order to achieve perfect population equality. This process would involve splitting a few precincts and would have no meaningful impact on the preceding analysis.

V. Population Shifted Into CD 6 and Out of CD 1 Under the 2011 Plan

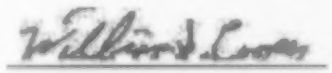
17. **Exhibit C** is a map of the 2002 Plan. As can be seen from the map, under the 2002 Plan, CD 1 extended across the Chesapeake Bay from the Eastern Shore to encompass part of Anne Arundel County. CD 6 extended across the northern tier all the way from Garrett County to the Harford-Cecil county line – a distance of about 175 miles along the Pennsylvania border, as the crow flies.

18. The 2011 Plan removed Anne Arundel County from CD 1, shifting 107,757 persons out of CD 1 as drawn under the 2002 Plan. To compensate for this population loss, 106,562 persons in Harford, Baltimore, and Carroll Counties were shifted from CD 6 under the 2002 Plan into CD 1 under the 2011 Plan.

19. **Exhibit D-1** is a map showing the CD 1 areas shifted (depicted with thick Black lines). **Exhibit D-2** shows summary statistics for the population shifted.

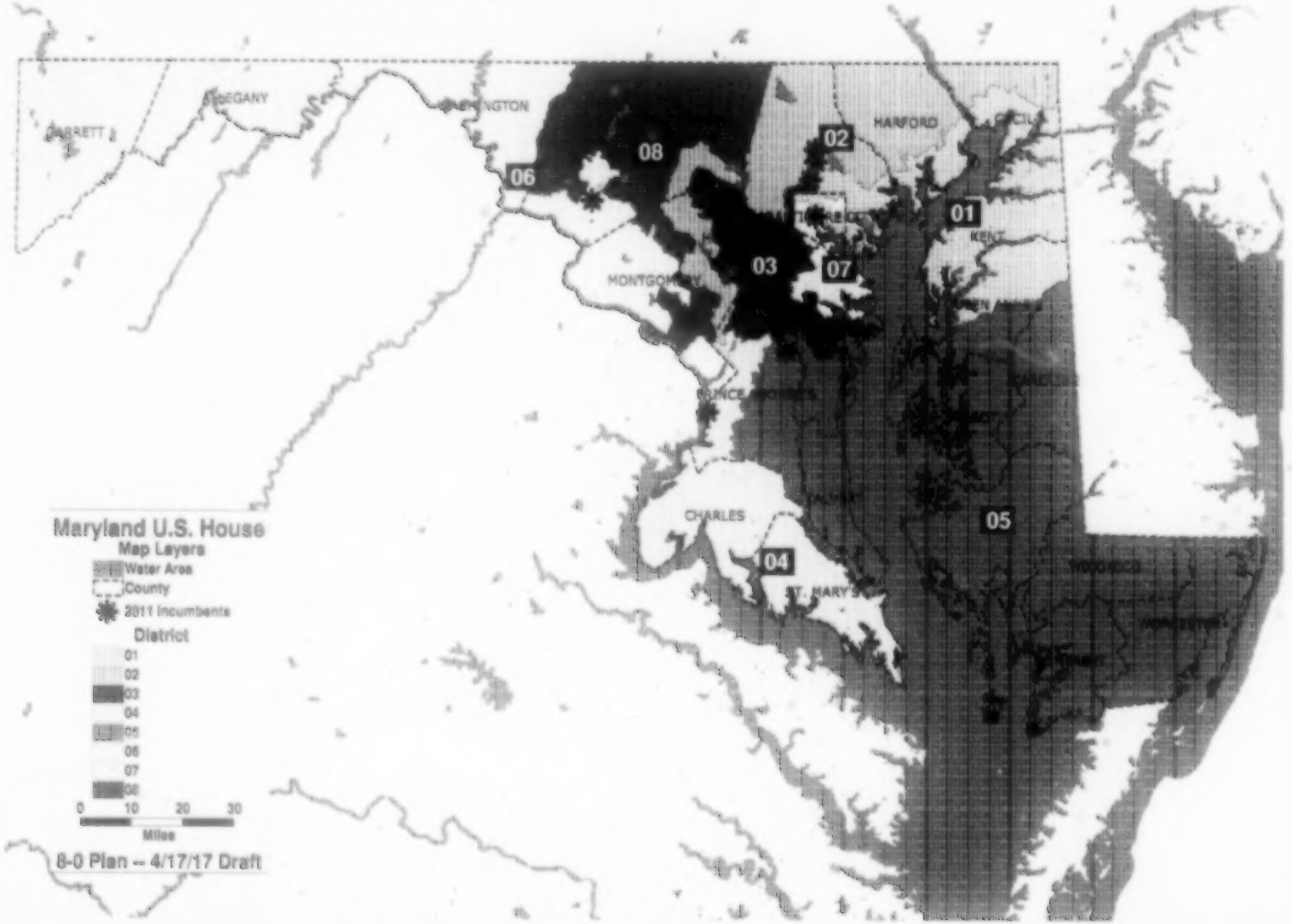
Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on: May 6, 2017



WILLIAM S. COOPER

Exhibit B-1


ALLEGANY
HARFORD
CECIL
KENT
CHARLES
ST. MARY'S
WORCESTER
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02
06
01
03
07
05
04
Maryland U.S. House
Map Layers
Water Area
County
2011 Incumbents
District
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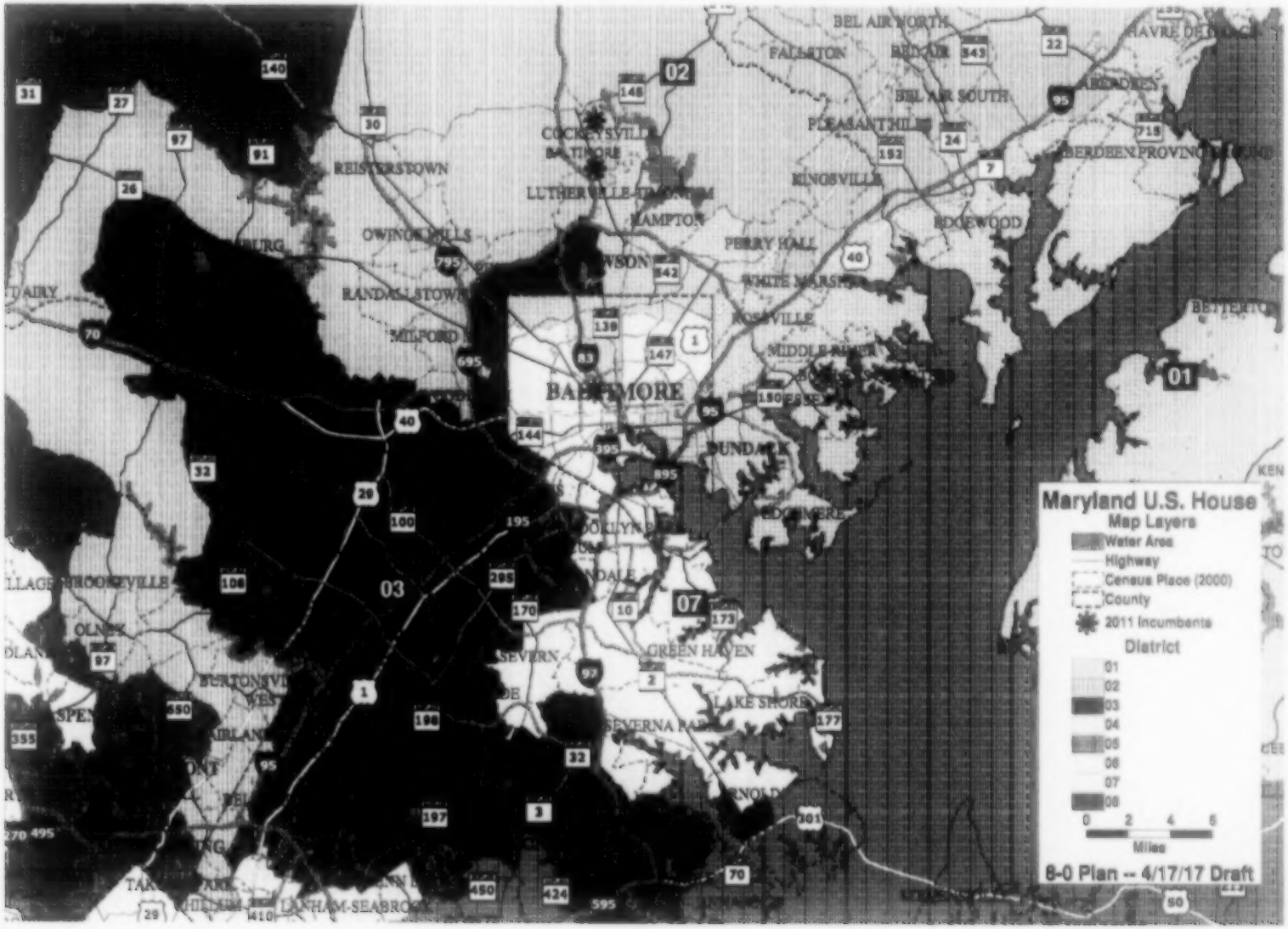
0 10 20 30
Miles
8-0 Plan -- 4/17/17 Draft

Exhibit B-2


Maryland U.S. House
Map Layers
Water Area
Highway
Census Place (2000)
County
2011 Incumbents
District
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Miles
8-0 Plan -- 4/17/17 Draft
BALTIMORE
01
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07

Exhibit B-3 (Amended)

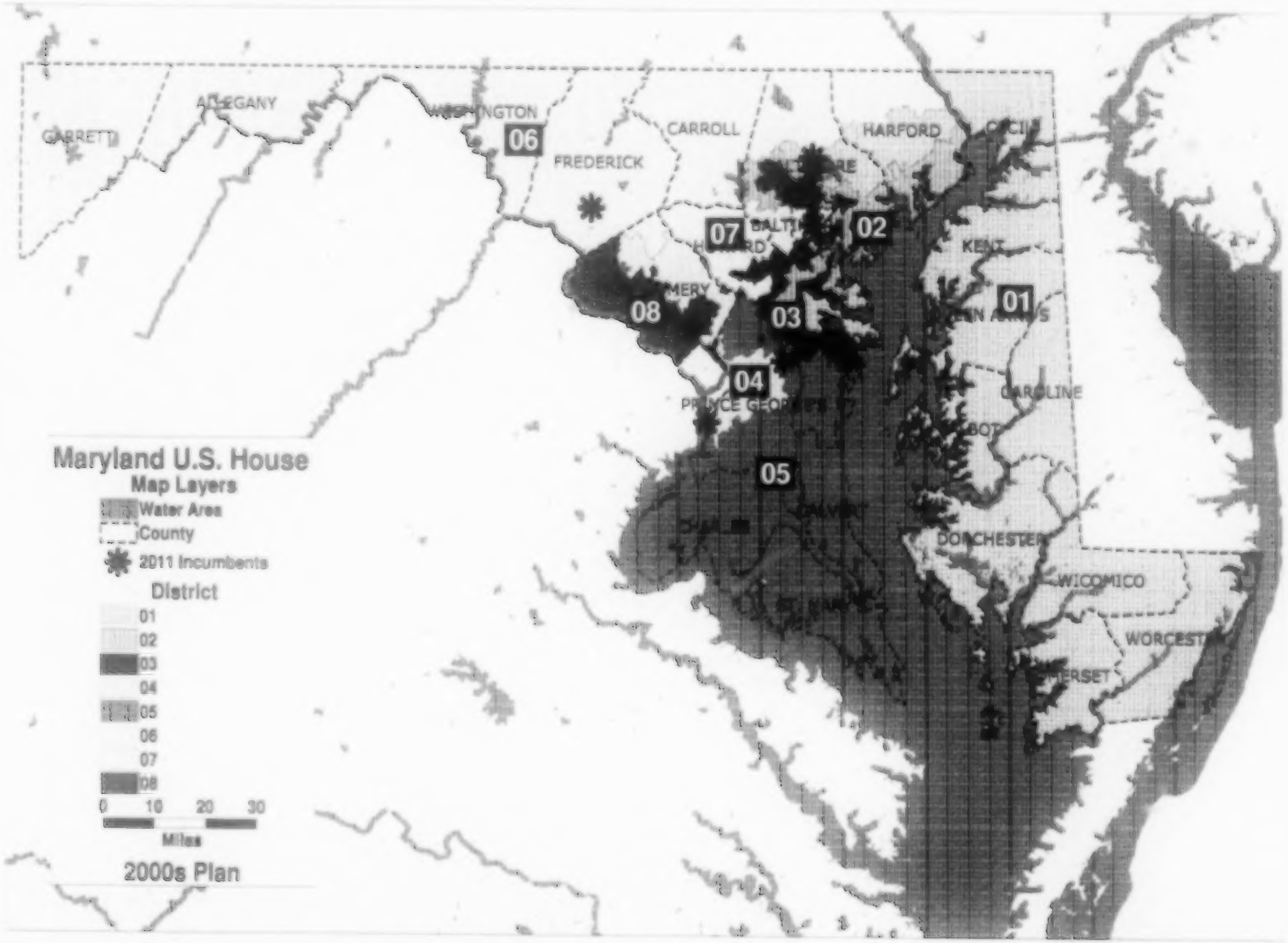
Population Summary Report

Maryland U.S. House, 8-0 Plan – April 17, 2017 Draft

District	Adjusted Population	Deviation	% Deviation	Adjusted Single-Race Black	% Adjusted Single-Race Black	Adjusted 18+ Population	Adjusted 18+ Black	% Adjusted 18+ Black	% Unadjusted 18+ Hispanic	% Unadjusted NH White	2008 Presidential (Democratic percentage)
01	722429	800	0.12%	163699	21.28%	570896	111727	19.6%	4.7%	70.8%	64.9%
02	720466	-1064	-0.15%	166755	23.15%	547303	122444	22.4%	6.7%	62.1%	62.5%
03	720600	-929	-0.13%	167803	26.06%	547066	137462	25.1%	6.2%	57.3%	61.8%
04	721571	42	0.01%	407040	56.41%	542777	302996	55.8%	9.7%	29.9%	79.0%
05	721788	257	0.04%	225609	31.25%	557567	167997	30.1%	4.0%	62.6%	57.0%
06	721529	0	0.00%	87435	12.12%	545070	61486	11.3%	10.1%	66.4%	56.2%
07	721692	363	0.05%	386808	53.86%	553031	286527	52.2%	3.3%	41.2%	72.1%
08	721959	430	0.06%	82210	11.39%	555468	62475	11.3%	11.9%	66.6%	62.5%
Total	5772231		0.22%	1686389	29.44%	4419387	1256113	28.40%	7.3%	57.22%	

Note: 2008 vote by precinct reported by Harvard Election Data Archive
Stephen Ansolabehere; Jonathan Rodden, 2011, "Maryland Data Files", hdl:1902.1/13549 V3 [Version]

Exhibit C


GARRETT
ALLEGANY
WASHINGTON
FREDERICK
CARROLL
HARFORD
CECIL
KENT
QUEEN ANNE'S
CAROLINE
DORCHESTER
WICOMICO
WORCESTER
SOMERSET
CALVERT
PRINCE GEORGE'S
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Maryland U.S. House
Map Layers
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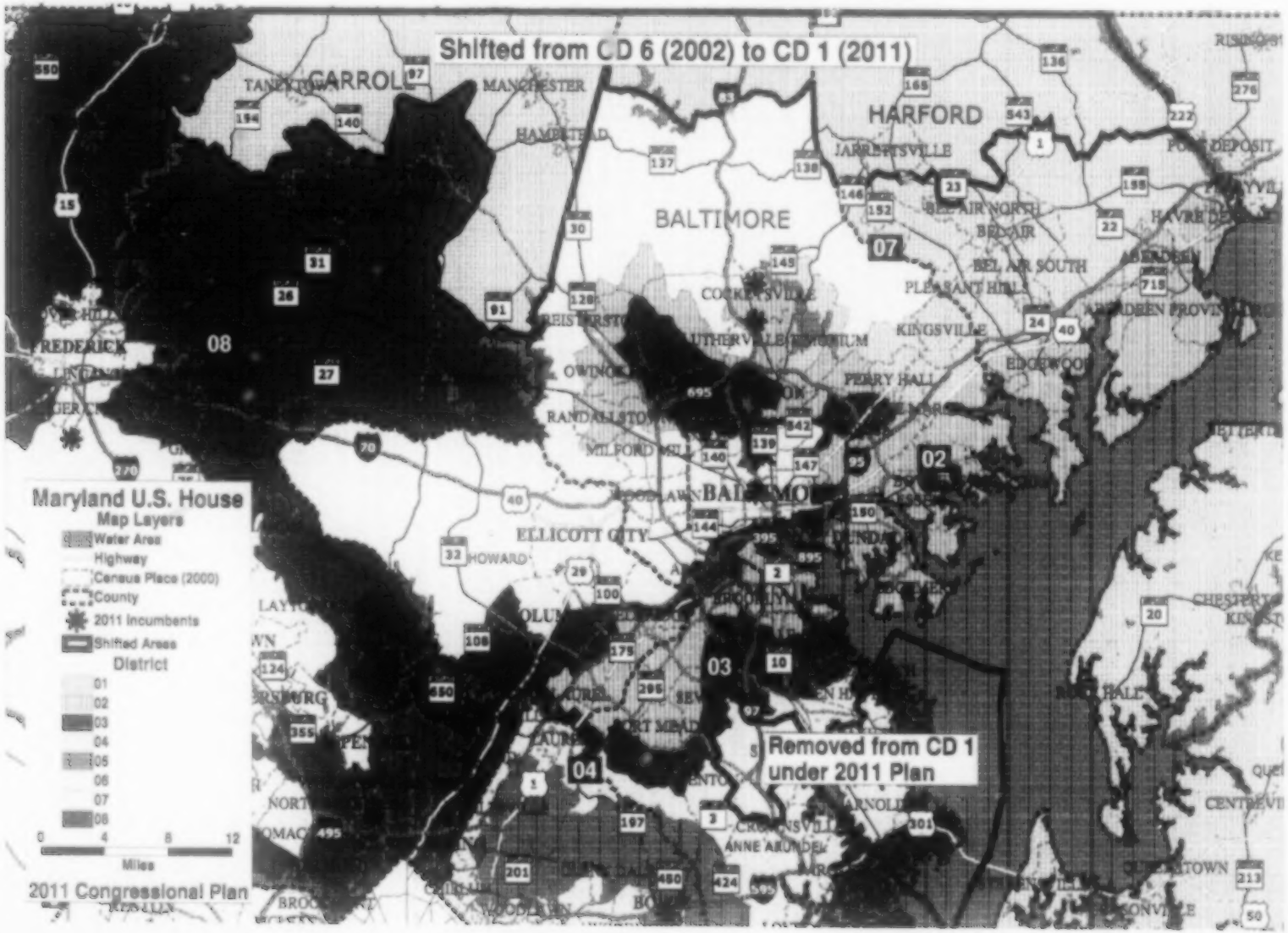
Miles
2000s Plan

Exhibit D-1


Shifted from CD 6 (2002) to CD 1 (2011)
Removed from CD 1 under 2011 Plan
Maryland U.S. House
Map Layers
Water Area
Highway
Census Place (2000)
County
2011 Incumbents
Shifted Areas
District
01
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Miles
2011 Congressional Plan
CARROLL
HARFORD
BALTIMORE
FREDERICK
ELLICOTT CITY
HOWARD
ANNE ARUNDEL
08
07
02
03
04

Exhibit D-2

Population Summary Report

Maryland U.S. House, CD 1 -- 2011 Adopted Plan -- Anne Arundel to Harford, Baltimore, and Carroll shift

District	Adjusted Population	Adjusted Single-Race Black	% Adjusted Single-Race Black	Adjusted 18+ Population	Adjusted 18+ Black	% Adjusted 18+ Black	% Unadjusted 18+ Hispanic	% Unadjusted NH White
01	721529	89401	11.42%	557047	61308	11.0%	2.8%	69.3%
Removed from Anne Arundel	107677	4572	4.25%	80764	3361	4.2%	2.5%	89.8%
Added from CD 8 in Harford, Baltimore, and Carroll	174282	2129	2.00%	81012	1091	1.9%	1.4%	85.0%

Note: 2008 vote by precinct reported by Harvard Election Data Archive

Stephen Ansolabehere; Jonathan Rodden, 2011, "Maryland Data Files", hdl:1902.1/18548 V3 [Version]

IN THE UNITED STATES DISTRICT COURT FOR THE UNITED STATES DISTRICT COURT FOR MARYLAND

O. JOHN BENISEK, et al., Plaintiffs, v. LINDA H. LAMONE, et al.,, Defendants.	Civil Case No.: 13-3233

SUPPLEMENTAL DECLARATION OF WILLIAM S. COOPER

WILLIAM S. COOPER, acting in accordance with 28 U.S.C. § 1746, Federal Rules of Civil Procedure 26(a)(2)(B) and 26(e), and Federal Rules of Evidence 702 and 703, does hereby declare and say:

1. My name is William S. Cooper. As a private consultant, I serve as a demographic and redistricting expert for the Defendants. I previously submitted a declaration for the Defendants in this case dated May 6, 2017. I was deposed by the attorneys for the Plaintiffs on May 23, 2017.

2. I submit this supplemental declaration in response to two concerns raised by the Defendants' attorneys at my May 23 deposition: (1) the hypothetical 8-0 Plan described in my May 6 Declaration is not a zero deviation plan and (2) the

hypothetical 8-0 Plan does not account for duplicate vote counts found in the dataset I relied upon from the Harvard Election Data Archive.

3. With respect to the zero deviation concern, I explained in my May 6 Declaration and at my May 23 deposition that given the hypothetical nature of the 8-0 Plan there is no point in zeroing out the district deviations. This is because the necessary population changes are so small that there would be no meaningful partisan effect.[1]

4. With respect to the precinct-level 2008 Presidential vote count discrepancy found in the Harvard Election dataset, I was unaware of the issue until I received the reply report filed on the evening of May 22 by Dr. Michael McDonald. Because I was en route to my May 23 deposition, I did not have an opportunity to make adjustments to correct the errors prior to the deposition.

5. The attached Zero Deviation 8-0 Plan removes duplicate vote counts in 11 consolidated Montgomery County precincts. (See maps in Exhibits A-1, A-2, and summary district statistics in Exhibit A-3.) These corrections are identical to the precincts identified by Dr. McDonald in his April 7 report[2] – except that consolidated Montgomery Precinct 5-009 merges 5-022 and 5-009. Precinct 5-005, which Dr. McDonald consolidates with 5-022, does not change – according to the

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[1] See Cooper May 6 Declaration, ¶16.

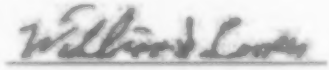
[2] See McDonald, April 7, 2017 Report – p. 27.

official Maryland 2010 precinct boundary file I used. [3]

6. The corrections I made to account for the duplicate vote count in the 11 consolidated precincts have a very minor downward impact on the 2008 Democratic vote percentages in CD 6 (-0.7%) and hypothetical Districts 2 (-0.2%) and District 8 (-.04%) of the Zero Deviation 8-0 Plan.[4]

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on: June 1, 2017



WILLIAM S. COOPER

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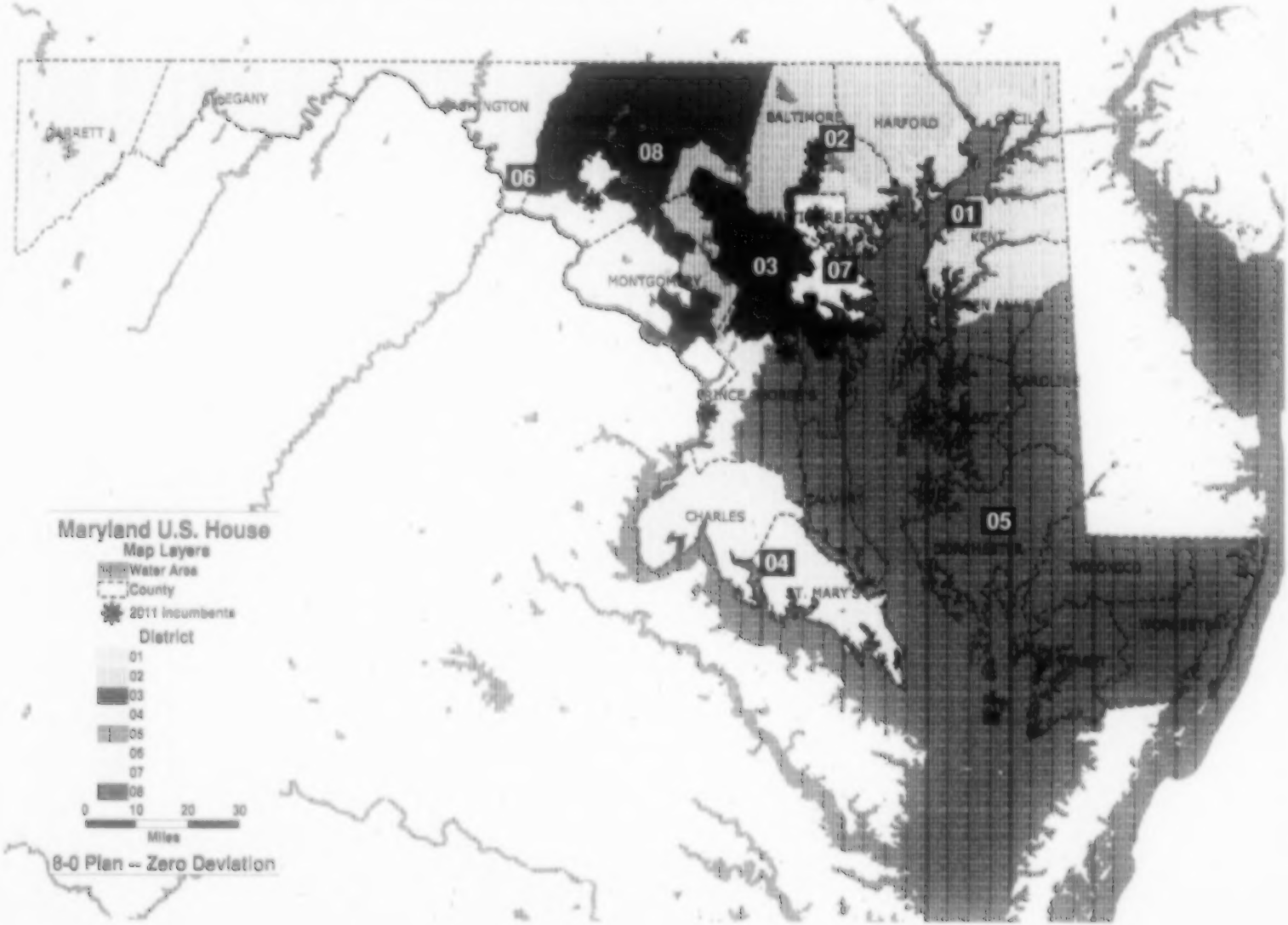
[3] The 2010 Maryland precinct shapefile, which I used as an overlay in preparing the 8-0 Plan, is available for download at:

http://planning.maryland.gov/redistricting/2010/precinct.shtml

[4] Compare attached Exhibit A-3 with Cooper May 6, 2017 Declaration, Exhibit B-3.

Exhibit A-1


Maryland U.S. House
Map Layers
Water Area
County
2011 Incumbents
District
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Miles
8-0 Plan -- Zero Deviation
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06
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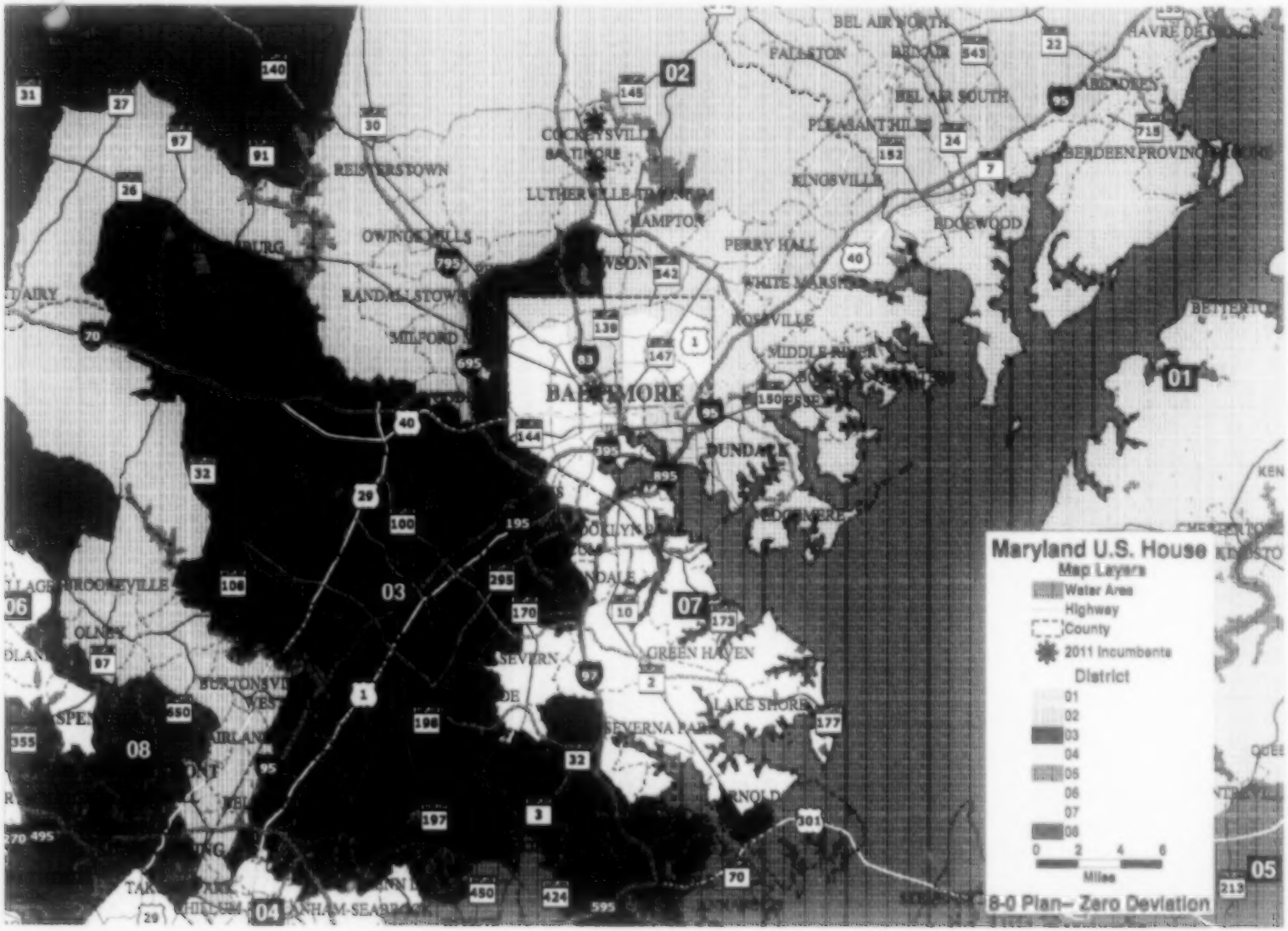
05
BALTIMORE
HARFORD
KENT
CHARLES
ST. MARY'S
WORCESTER

Exhibit A-2


Maryland U.S. House
Map Layers
Water Area
Highway
County
2011 Incumbents
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Miles
8-0 Plan– Zero Deviation
BALTIMORE
02
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Exhibit A-3

Population Summary Report

Maryland U.S. House, 8-0 Plan – April 17, 2017 Zero Deviation

District	Adjusted Population	Deviation	% Deviation	Adjusted Single-Race Black	% Adjusted Single-Race Black	Adjusted 18+ Population	Adjusted 18+ Black	% Adjusted 18+ Black	% Unadjusted 18+ Hispanic	% Unadjusted 18+ NH White	2008 Presidential (Democratic percentage)
01	721529	0	0.00%	153564	21.28%	570291	111727	19.6%	4.7%	70.8%	64.9%
02	721529	0	0.00%	166841	23.12%	548144	122444	22.4%	6.8%	62.2%	62.5%
03	721529	0	0.00%	187903	26.04%	547820	137462	25.1%	6.9%	57.3%	61.7%
04	721529	0	0.00%	406602	56.35%	542783	302995	55.8%	9.7%	29.9%	79.0%
05	721529	0	0.00%	226295	31.36%	557370	167997	30.1%	4.0%	62.5%	57.1%
06	721529	0	0.00%	87435	12.12%	549070	61488	11.3%	10.1%	69.4%	65.5%
07	721529	-1	0.00%	386601	53.96%	552738	266527	52.2%	3.3%	41.2%	72.1%
08	721529	0	0.00%	82036	11.37%	566131	62475	11.3%	11.9%	69.7%	62.1%
Total	5772231		0.00%	1896369	29.44%	4416367	1286113	29.40%	7.3%	57.22%	

Note: 2008 vote by precinct reported by Harvard Election Data Archive

Stephen Ansolabehere; Jonathan Rodden, 2011, "Maryland Data Files", hdl:1902.1/15549 V3 [Version]

Duplicate vote counts in 11 Montgomery County consolidated precincts have been removed from the Harvard dataset

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

O. JOHN BENISEK, *et al.*,

Plaintiffs,

v. Case No. 13-cv-3233

LINDA H. LAMONE., *et al.*,

Defendants.

DECLARATION OF YAAKOV WEISSMANN

I, Yaakov Weissmann, under penalty of perjury, declare and state:

1. I, Yaakov "Jake" Weissmann, am over the age of eighteen and competent to testify on the matters stated below.

2. I have served as a staff member to Senate President Thomas V. Mike Miller, Jr. since July 2009. When I began my service I was a junior member of the staff and Patrick Murray was Deputy Chief of Staff. Victoria Gruber served, and still serves as Chief of Staff. In 2011, Senate President Miller assigned the general topic of redistricting to Mr. Murray's portfolio of matters and Mr. Murray asked me to assist him.

3. My first work on redistricting began in January 2011 when I met with the Department of Legislative Services with Mr. Murray, Jeremy Baker, who was a staff member to House Speaker Michael Busch, and staff from the Department of Legislative Services to be trained to use the Maptitude redistricting software. We also learned and discussed what data would be available from the Census, later in the spring.

4. To the best of my recollection, in or around January or February, 2011, Mr. Murray and I were provided with a laptop that had been prepared by the Department of Legislative Services with the 2010 Census data, as adjusted for Maryland's No Representation Without Population Act. The laptop also included party registration data and voter turnout data. At some later time we received two data files that contained Democratic Performance Index information at the precinct level—the first file contained

unreliable data, but the second appeared to be reliable. I cann t recall who provided the data we ultimately used. None of the data sets we had available gave data at an address level and we did not examine information at an address level.

5. Occasionally, we examined census blocks. The only data available at a census block level, other than 2010 Census data, was registration and turnout data. The Democratic Performance Index data was available at the precinct level only (although the mapping software will display a number for the Census Block, I cannot ever recall looking at that number and, because the Democratic Performance Index is calculated using election returns, it is not meaningful at lower than a precinct level). Election results data from the State Board of Elections was not integrated into the mapping software, although it is possible that we consulted those results from time to time. I have no specific recollection of doing so with respect to congressional redistricting. When drawing district lines, the software program did not permit us to split census blocks.

6. Because I was more technologically proficient, and, as a junior staffer, had more time in my schedule, I became the person primarily charged with using the Maptitude software to create draft plans.

7. I began working with staff members from the Governor's office in or around July, 2011 to assist them with drawing the Governor's Redistricting Advisory Committee 2011 Congressional map. These staff included Joseph Bryce, Secretary of State John McDonough. Pat Murray and Jeremy Baker were also part of this group. As part of that work I attended several of the GRAC's public hearings. From time to time, Jeanne Hitchcock, chair of the Governor's Redistricting Advisory Committee and Richard Hall, Secretary of Planning would join our workgroup to provide feedback, including feedback from the public hearings and other stakeholders. We also looked at and considered a variety of third-party plans including the plan submitted to the Governor's Redistricting Advisory Committee by the Maryland Republican Party.

8. Sometime in the middle of August, 2011, our group received a draft map that was provided by a member of the Governor's staff, although I cannot remember who provided it. I understood this draft map to be a map that the Maryland United States Congressional Delegation had presented to the Governor. A printout of the map is attached as Exhibit A to this affidavit. I have examined Exhibit B to this affidavit and believe it to be the same or a substantially similar map.

9. The map depicted as Exhibit A was not acceptable. The group of staff tasked with developing a plan therefore sought to create a plan that would be acceptable to the Commission. We made a series of major changes that included keeping 1) Washington

County intact; 2) Frederick City intact;[1] 3) Hagerstown intact; 4) Westminster intact; 5) the number of districts in Prince George's County to just two by drawing the Third and the Eighth Districts so that they did not include population from Prince George's County; 6) the number of districts in Montgomery County to three by drawing the Fourth District so that it did not include population from Montgomery County; and 7) the I-270 corridor as a major feature of the Sixth district, connecting Frederick with Montgomery County. We also made other changes to improve the visual compactness of the districts throughout the map as compared to the draft map provided by the Congressional delegation.

10. When we were preparing the plan for the GRAC's approval we also understood that an option should be presented that eliminated the Chesapeake Bay crossing the First District by removing the Anne Arundel County District One population. Because of GRAC's other goals, including reducing the number of congressional districts in Prince George's County, maintaining majority-minority districts, and incumbent protection, development of this map required the Sixth District to expand southward into Montgomery County. For example, keeping the addresses of all incumbents in their districts was not simple in the north-east sector of the map, where three incumbent congressional representatives lived in close proximity to each other.

11. When drawing the Sixth and Eighth Districts, the staff intended to place the entirety of Frederick City into the Sixth District and the entirety of Rockville, Maryland into the Eighth District. In the process of preparing this affidavit I examined maps prepared by the Department of Planning and attached as Exhibit A to the declaration of Shelly Aprill and the map files produced in this case, and realize that there was a trivial split of each city. In Frederick City, I do not know how this split occurred, because I recollect selecting the boundaries of the municipality in Maptitude for inclusion in the Sixth District when drawing the district lines in that area. In Rockville, it appears that the boundaries of precinct 04-020 were followed rather than the municipal boundary in one instance. I cannot recall if this was done purposefully to avoid a precinct split or whether I selected Rockville's municipal boundaries in Maptitude like I did for Frederick City, but I do recall that Rockville in its entirety was intended to be placed in the Eighth District. Examining the map file from which the text of Senate Bill 1 was prepared, it appears that there are 0 residents in the area of Frederick City contained in the Eighth and that there are 4 residents in the area of Rockville contained in the Sixth District.

12. At one point, our group considered a map that would have created the possibility that eight Democratic and zero Republican congressional representatives could be elected, but this map was not seriously considered for adoption.

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[1] As explained below, it was our intent to keep Frederick City intact.

13. As staff, we developed at least three plans, but it may have been four, to discuss and share with the GRAC. These plans were presented to GRAC who voted on a plan that was announced, and that plan was presented to the Governor. After the GRAC's announcement and presentment, the Governor made slight additional changes. This map was ultimately provided to the Department of Legislative Services to be translated into the text of Senate Bill 1.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

6/29/17
Date

Yaakov Weissmann

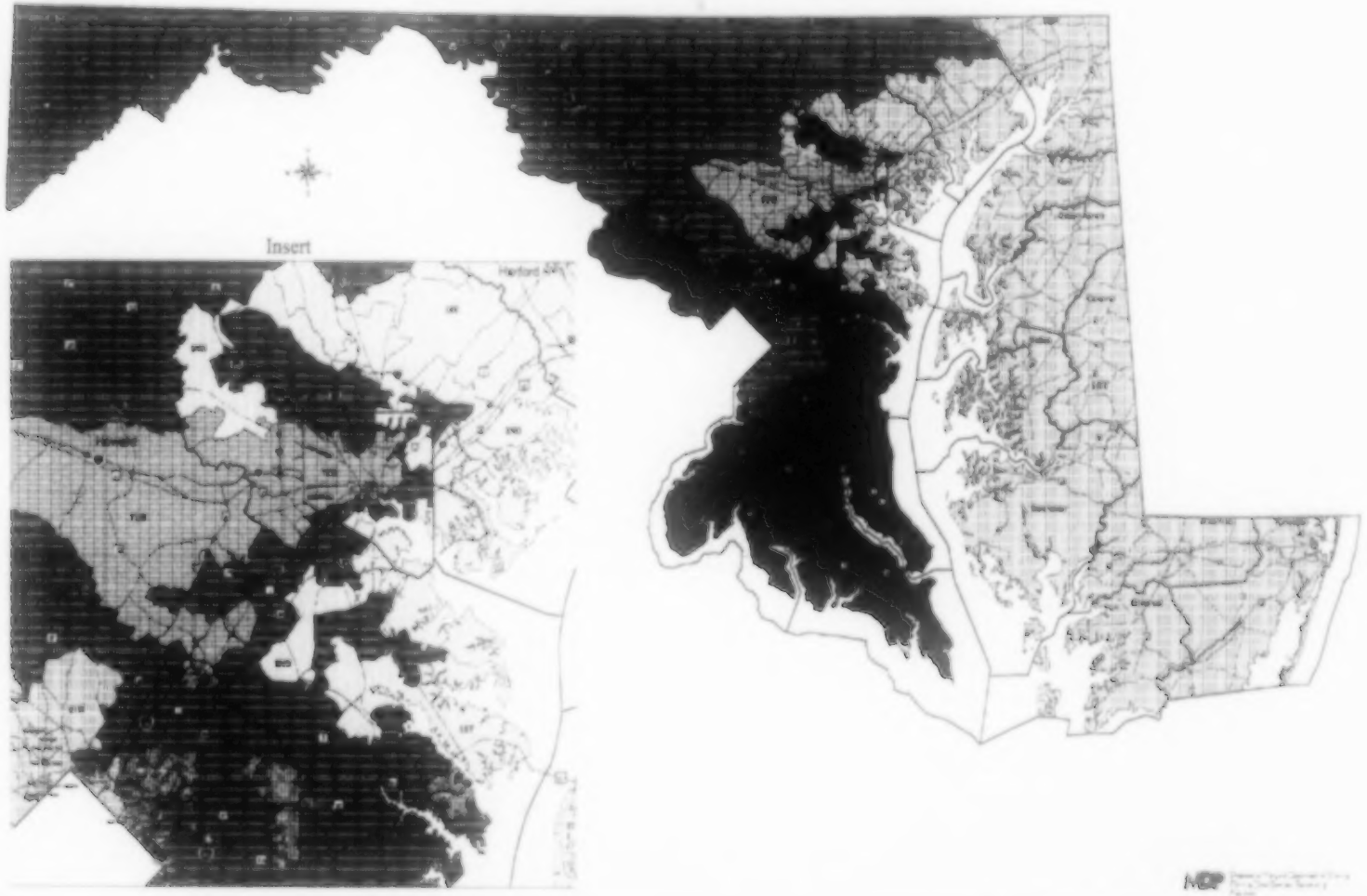
Exhibit A

Exhibit B

Delegation Proposal

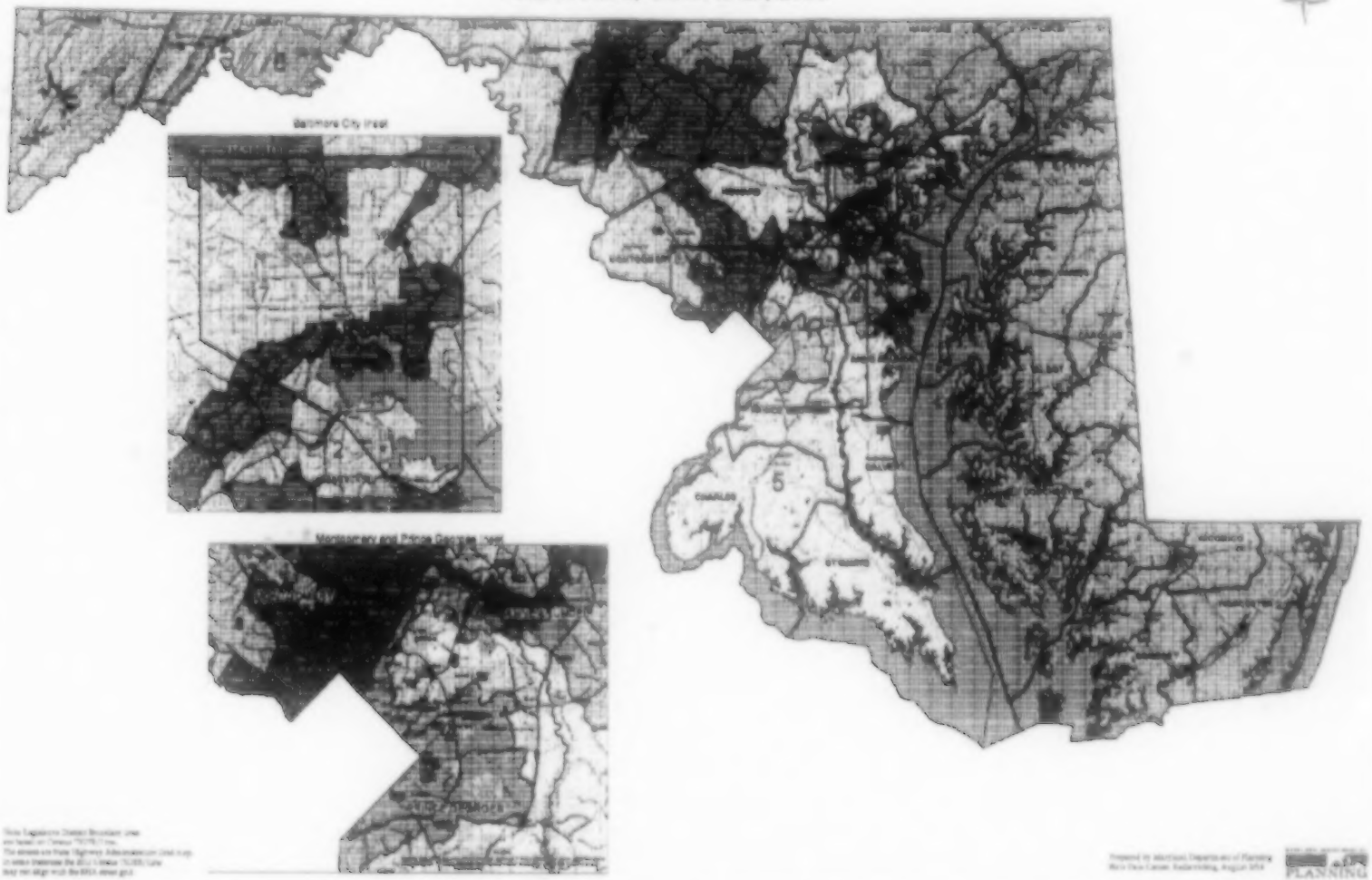
2002 CONGRESSIONAL DISTRICTING PLAN

Senate Bill 805 May 6th, 2002



Maryland 2011 Congressional Districts

Senate Bill 1, October 20, 2011



Appendix A - 5

POPULATION CHANGE and VARIANCE from IDEAL - ADJUSTED 2010 CENSUS POPULATION COUNTS by EXISTING 2002 CONGRESSIONAL DISTRICT

Senate Bill 605, May 6, 2002

Note: This report is based on Census 2010 P.L. 94-171 Redistricting Data (Maryland) and is ADJUSTED for the use of Maryland Redistricting pursuant to the "No Representation Without Population" Act (SB 400\HB 496) passed into Maryland law in 2010. Maryland census data must be ADJUSTED for the purposes of creating congressional, state legislative, and local districting plans. Generally, the law requires that the census data must be adjusted to reassign Maryland residents in State & Federal correctional institutions to their last known address, and to exclude out-of-state residents in correctional institutions from redistricting.

Variance from Ideal District Population
Ideal Congressional District Population 2000: 662,061
Ideal Congressional District UnAdjusted Population 2010: 721,694
Ideal Congressional District AdJustedPopulation 2010: 721,529

2002 Congressional District	Total Census Population 2000	2000 Ideal Congressional District Population	UnAdjusted Total Census Population 2010	Adjusted Total Census Population 2010	2010 AdJusted Ideal Congressional District Population	Net Change	Net Pct Change	Adjusted Variance from Ideal Popn. Deviation	Percent
Maryland	5,296,486	662,061	5,773,552	5,772,231	721,529	-1,321	0.0%		
01	662,082	662,061	744,275	743,067	721,529	-1,208	-0.2%	21,538	3.0%
02	662,060	662,061	700,893	703,824	721,529	2,931	0.4%	-17,705	-2.5%
03	662,082	662,061	719,856	716,808	721,529	-3,048	-0.4%	-4,721	-0.7%
04	662,082	662,061	714,319	715,674	721,529	1,355	0.2%	-5,855	-0.8%
05	662,080	662,061	767,369	768,464	721,529	1,095	0.1%	46,935	6.5%
06	662,080	662,061	738,940	731,715	721,529	-7,225	-1.0%	10,186	1.4%
07	662,080	662,061	659,776	664,091	721,529	4,315	0.7%	-57,438	-8.0%
08	662,080	662,061	728,124	728,588	721,529	464	0.1%	7,059	1.0%

Definition: The "ideal" district population is equal to the total state population divided by the total number of districts."Absolute deviation" is the degree by which a single district's population varies from the "ideal" population.
The difference is expressed as a plus or minus number, meaning that the district's population exceeds or falls short of the "ideal" by that number of people.
The percent deviation is the percent, plus or minus, that the district's actual population deviates from the "ideal" population.

Note: The district totals include minor corrections in the assignment of census tabulation blocks to voting districts/precincts. The corrections to the P.L.94-171 U.S. Bureau of the Census file were made by Maryland Department of Planning and Department of Legislative Services.
The 2010 Population for Congressional and Legislative Districts are derived and based on the assignment of voting districts/precincts to districts as provided by Local Board of Elections and adjusted by the Maryland Departments of Planning, Legislative Services and Public Safety and Correctional Services pursuant to the "No Representation Without Population" Act.

Report prepared by the Maryland Department of Planning, Clearinghouse, Redistricting, May 2011

U.S. Election Assistance Commission invited me to be a panelist on poll worker recruitment, training and retention at its public meeting on May 25, 2006. Invited participant in a planning session sponsored by the PEW Charitable Trusts as part of their "Make Voting Work" initiative.

In 2011, I was retained to assist the Baltimore City Council in its redistricting process for the drawing of city council district lines. This task involved attending numerous public hearings and meetings as well as drafting proposals of council district boundary lines for consideration by the Baltimore City Council. I also provided analysis of the city council redistricting plans proposed by the Mayor of Baltimore City, council members and the public. I prepared a lengthy report with maps as part of my work. In addition to advising and consulting with the Baltimore City Council on its redistricting process, I chaired the 2010 Citizens Committee for Baltimore City at the request of the Mayor. Again, my responsibility was to coordinate with the U.S. Census Bureau and work with advocacy groups, businesses, city agencies, community, and neighborhood groups to secure the maximum participation of Baltimore City residents in the 2010 Census.

Publications

- Herbert C. Smith & John T. Willis, "Maryland Politics and Government: Democratic Dominance" (2012)
- John T. Willis, "Presidential Elections in Maryland" (1984)
- John T. Willis, "Carroll County," in Western Maryland: A Profile 105 (Thomas H. Hattery, ed., 1980)
- *Election Administration Reports* (John T. Willis, ed., 2008-present)

IV. The Evolution of the Sixth Congressional District

A. Origin of the Sixth Congressional District's Five Counties

The five counties in Maryland's Sixth Congressional District (Allegany, Frederick, Garrett, Montgomery and Washington) share a common origin and heritage as well as have extensive agricultural, economic, geographic, political, religious and social connections. All of the counties

were part of the land designated as Frederick County by an Act of the Maryland Proprietary Assembly on June 10, 1748.[1]

By resolution of the Maryland Constitutional Convention of 1776, passed on September 6, 1776, Montgomery County was created from the lower district of Frederick County and Washington County was created from the upper district of Frederick County.[2] All three counties received recognition under the 1776 Constitution of Maryland and were granted representation in the House of Delegates.[3] The state's first constitution was adopted on November 8, 1776.[4]

Allegany County was created by the Maryland General Assembly on December 25, 1789, from the western portion of Washington County,[5] after the ratification of the U.S Constitution and after the first federal elections were held in Maryland on January 7-10, 1789.[6] Garrett Count was the last county created in Maryland on December 5, 1872, from the western portion of Allegany

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[1] "An Act to divide Prince George's County and to erect a new one by the Name of Frederick County." 15 Md. Laws 1748, reported in *Assembly Proceedings May* 10-*June* 11, 1748 142; *available at* http://aomol.msa.maryland.gov/megafile/msa/speccol/sc2900/sc2908/000001/000046/pdf/am46--142.pdf.

[2] 78 Proceedings of the Conventions of the Province of Maryland, held at the City of Annapolis in 1774, 1775 & 1776 242, 242-46 (Baltimore: James Lucas & E.K. Deaver and Annapolis: Jonas Green 1836); available at http://msa.maryland.gov/megafile/msa/speccol/sc2900/sc2908/000001/000078/html/am78--242.html.

[3] "A Declaration of Rights, and the Constitution and Form of Government, Agreed to by the Delegates of Maryland, in free and full Convention assembled." 40-41 (Annapolis: Frederick Green 1776), available at: http://msa.maryland.gov/megafile/msa/speccol/sc2900/sc2908/html/convention1776.html

[4] "Maryland At A Glance: Historical Chronology", Maryland Manual On-Line, available at http://msa.maryland.gov/msa/mdmanual/01glance/chron/html/chron17.html (last visited May 8, 2017).

[5] Chapter 29, Acts of 1789.

[6] John T. Willis, "Presidential Elections in Maryland" 13 (1984).

County.[7] Garrett County, named after John W. Garrett, the president of the Baltimore and Ohio Railroad Company from 1851-1884,[8] first had votes recorded in a federal election in 1874.[9]

The common origin and historical development of the five counties contained in the Sixth Congressional District are aptly described in a chapter entitled "The Green Walls–Western Maryland" in The Old Line State: A History of Maryland, edited by the State Archivist and Commissioner of Land Patents, Dr. Morris L. Radoff, and published by the Maryland Hall of Records Commission. The author of this chapter was Charles McC Mathias, Jr., who became the congressman representing the Sixth Congressional District (1961-1969) and a Maryland U.S. Senator (1969-1987).[10] The early settlement and development of the counties in the current Sixth Congressional District is set forth in great detail in the classic two volume work entitled, History of Western Maryland. Being a History of Frederick Montgomery, Carroll, Washington, Allegany and Garrett Counties from the Earliest Period to the Present Day, compiled and written by J. Thomas Scharf and first published in 1882.

B. History of the Sixth Congressional District

To explain and illustrate the historical development of Maryland's congressional district boundary lines, I have prepared, in conjunction with the Maryland Department of Planning, a set of maps depicting the boundary lines for the state's congressional districts from the first federal election held January 7-10, 1789, to the current congressional district boundary lines approved on October 20, 2011. *See* Appendix A, Maps 1 through 16.

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[7] Chapter 212, Acts of 1872

[8] J. Thomas Scharf, "History of Western Maryland: Being a History of Frederick, Montgomery, Carroll, washington, Allegany and Garrett Counties From the Earliest Period to the Present Day", Vol.II 1511 (Regional Publishing Co. 1968).

[9] *See id.* at 1518 (Garrett County was considered part of the Sixth District in the elections of 1874).

[10] Morris Radoff, ed., The Old Line State, Hall of Records Commission (1971).

On December 22, 1788, the Maryland General Assembly passed the first statute creating congressional district boundary lines in Maryland.[11] The Sixth Congressional District was designated as consisting of Frederick, Washington and Montgomery counties.[12] That 1789 Sixth Congressional District encompasses all of the land contained in the current Sixth Congressional District. *See* Appendix A, Compare Map 1 with Map 16.

The number of members of the U.S. House of Representatives allocated to the state of Maryland pursuant to federal laws implementing apportionment after the decennial U.S. Census, has ranged from five members to nine members. Table 1 sets forth the number of members of the House of Representatives apportioned to Maryland under the United States Constitution after each decennial census since 1789 and the congressional district designations from 1789 through 2016 for each of the counties relevant to this litigation. Table 2 lists the state laws passed by the Maryland General Assembly establishing the congressional district boundary lines within the state.

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[11] Chapter 10, Acts of 1788, Second Session, available at http://aomol.msa.maryland.gov/megafile/msa/speccol/sc2900/sc2908/000001/000204/html/am204--317.html.

[12] *Ibid.*

TABLE 1
MARYLAND ELECTION HISTORY
CONGRESSIONAL DISTRICTS of RELEVANT COUNTIES
1789-2020

Years	# Md Rep.	Allegany	Carroll	Frederick	Garrett	Montgomery	Washington
1789-91	6	not formed	not formed	6	not formed	6	6
1792-1800	8	6	not formed	3 and 4	not formed	3	6
1802-1830	9	6	not formed	3 and 4	not formed	3	6
1812-1820	9	6	not formed	3 and 4	not formed	6	6
1822-1830	9	6	not formed	3 and 4	not formed	6	6
1832-1840	8	7	nf; 3 and 6	6 and 7	not formed	6	7
1842-1950	6	2	3	2	not formed	1	2
1852-1960	6	2	3	2	not formed	1	2
1862-1870	5	4	4	4	not formed	5	4
1872-1880	6	6	2	6	6	6	6
1882-1890	6	6	2	6	6	6	6
1892-1900	6	6	2	6	6	6	6
1902-1910	6	6	2	6	6	6	6
1912-1920	6	6	2	6	6	6	6
1922-1930	6	6	2	6	6	6	6
1932-1940	6	6	2	6	6	6	6
1942-1950	6	6	2	6	6	6	6
1952-1960	7	6	2	6	6	6	6
1962-1964	8	6	2	6	6	6	6
1966-1970	8	6	6	6	6	8	6
1972-1980	8	6	6	6	6	6 and 8	6
1982-1990	8	6	6	6	6	6 and 8	6
1992-2000	8	6	6	6	6	4 and 8	6
2002-2010	8	6	6	6	6	4 and 8	6
2012-2020	8	6	1 and 8	6 and 8	6	3, 6 and 8	6

Prepared by J.T. Willis from official election returns and a work in progress, **Maryland Election History** (copy. 04/07/17).

TABLE 2
MARYLAND ELECTION HISTORY
Acts of Maryland General Assembly
Creating Congressional Districts
(1788-2011)[13]

1. Acts of 1788 (Reg. Sess.), Chapter X (created six congressional districts (CDs))
2. Acts of 1791 (Reg. Sess.), Chapter LXII (provided for 8 or 9 CDs depending upon census results)
3. Acts of 1832 (Reg. Sess.), Chapter 275 (created eight CDs)
4. Acts of 1843 (Reg. Sess.), Chapter 16 (created six CDs)
5. Acts of 1862 (Reg. Sess.), Chapter 228 (created five CDs)
6. Acts of 1872 (Reg. Sess.), Chapter 418 (created six CDs)
7. Acts of 1902 (Reg. Sess.), Chapter 136 (recreated six CDs)
8. Acts of 1951 (Reg. Sess.), Chapter 143 (created seven CDs)
9. Acts of 1961 (Reg. Sess.), Chapter 206 (created eight CDs)[14]
10. Acts of 1963 (Reg. Sess.), Chapter 380 (created eight CDs)[15]
11. Acts of 1971 (Special Sess.), Chapter 353 (created eight CDs)
12. Acts of 1982 (Reg. Sess.), Chapter 106 (created eight CDs)
13. Acts of 1991 (2nd Special Sess.), Chapter 4 (created eight CDs)
14. Acts of 2002 (Reg. Sess.), Chapter 340 (created eight CDs)
15. Acts of 2011 (Special Sess.), Chapter 1 (created eight CDs)[16]

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[13] Prepared by J.T. Willis from official election returns and a work in progress, **Maryland Election History** (copy. 04/07/17)

[14] The boundary lines drawn by the General Assembly were petitioned to referendum and rejected at the general election on November 6, 1962.

[15] The boundary lines drawn by the Maryland General Assembly were petitioned to referendum but federal district court stayed the conduct of the election pending judicial challenges. The 1966-70 congressional district boundary lines were court-ordered on May 3, 1966, in *Maryland Citizens Committee for Fair Congressional Redistricting, Inv. v. Tawes*, 253 F. Supp. 731 (D. Md. 1966).

[16] The boundary lines drawn by the Maryland General Assembly were petitioned to referendum and approved by the voters at the general election on November 6, 2012.

An examination of these Maryland congressional district maps and tables reveals a long-standing connection between Montgomery County and the rest of the western counties in the Sixth Congressional District. As previously stated, Montgomery County along with Frederick County and Washington County comprised the initial Sixth Congressional District for the first federal congressional election in 1789. *See* Appendix A, Map 1. For the forty-seven (47) regular congressional elections held from 1872 through 1964 spanning ninety-four years, the entirety of Montgomery County was part of the Sixth Congressional District along with Allegany, Frederick, Garrett and Washington counties. *See* Appendix A, Maps 7 through 10. The entirety of Montgomery County has been a part of the sixth congressional district for forty-nine out of the 115 regular congressional elections since 1789. *See* Appendix A, Maps 1, 7 through 10. A portion of Montgomery was included in the Sixth Congressional District in another eighteen (18) congressional elections covering twenty-six years (1972-1980, 1982-1990, 1992-2000, 2012-2016). *See* Appendix A, Maps 12, 13, 15, 16.

After the state of Maryland was allocated eight members of the U. S. House of Representatives subsequent to the first federal census taken in 1790, Montgomery County was joined with the eastern part of Frederick County by the Maryland General Assembly in a Third Congressional District for the five congressional elections held from 1792 to 1800. *See* Appendix A, Map 2. After the state of Maryland was allocated nine members of the U.S. House of Representatives pursuant to the 1800 Census, Montgomery County remained joined with Frederick County in a Third Congressional District for another fifteen congressional elections, covering thirty years from 1802 through 1832. *See* Appendix A, Map 3. For the ten congressional elections from 1833 to 1840 when the state's members of the U.S. House of Representatives was reduced to eight following the 1830 Census, Montgomery County was joined with Frederick County (and

in 1838 and 1840 with a portion of Carroll County), in the Sixth Congressional District. *See* Appendix A, Map 4.

The congressional district history of Montgomery County stands in contrast to Carroll County, which was created in 1837 out of an eastern portion of Frederick County and a northwestern portion of Baltimore County. Pursuant to Chapter 294 of the Acts of 1836, the western portion of Carroll County was placed in the Third Congressional District with an eastern portion of Frederick County and the entirety of Montgomery County. *See* Appendix A, Map 4. The eastern portion of Carroll County was assigned to the Sixth Congressional District along with Baltimore County, Harford County, and parts of Baltimore City. *Id.* After the 1840 census, Maryland's number of members in the U.S. House of Representatives was reduced from eight to six and Carroll County was placed in the Third Congressional District along with Baltimore County, Howard County, and Baltimore City for the next twenty years from 1842 to 1860. *See* Appendix A, Map 5. When Maryland's congressional delegation was reduced to only five members after the 1860 Census, the General Assembly placed Carroll County in a Fourth Congressional District along with the western Maryland counties for ten years from 1862 to 1870. *See* Appendix A, Map 6. However, when Maryland's representation was increased to six members after the 1870 Census, Carroll County was placed in the Second Congressional District along with Baltimore County, a portion of Baltimore City, Cecil County, and Harford County for thirty years. *See* Appendix A, Map 7. After the 1900 Census, Carroll County again was assigned to the Second Congressional District together with Baltimore County, a portion of Baltimore City, and Harford County for the next fifty-four years until the 1966 congressional elections. *See* Appendix A, Maps 8 through 10.

On May 3, 1966, a federal district court panel ordered a redistricting plan for the 1966 to 1970 congressional elections, as a result of lawsuits challenging attempts of the Maryland General Assembly to draw eight congressional districts.[17] The court's redistricting plan, depicted in Appendix A, Map 11, placed Carroll County into a Sixth Congressional District with Allegany, Frederick, Garrett, and Washington Counties, and a part of Howard County as the court endeavored to achieve congressional districts of substantially equal population.[18] This judicial action placed Carroll County in a district with other counties with which it had not been joined since the state of Maryland was reduced to only five members in the House of Representatives after the 1860 Census.

In summary, the political connection of Montgomery County to Frederick County and the other Maryland counties in the Sixth Congressional District is consistent with the historical redistricting decisions of the Maryland General Assembly for 229 years that have reflected cultural, demographic, economic, geographic, transportation, and political factors. In forty-nine congressional elections covering ninety-eight years, the entirety of all of the counties were together in a single congressional district. In another eighteen regular congressional elections covering thirty-six years, a portion of Montgomery County has been included in the Sixth Congressional District with the western Maryland counties. In addition, the entirety of Montgomery County was included, with a portion of Frederick County, in a common congressional district for another twenty regular congressional elections spanning 40 years.

Further, the inclusion of a portion of Carroll County in the First Congressional District with the northern portions of Baltimore County and Harford County as well as Cecil County represents

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[17] *Maryland Citizens Comm. for Fair Cong. Redistricting, Inc. v. Tawes*, 253 F. Supp. 731 (D. Md. 1966).
[18] *Id.* at 736-37.

a return to historical congressional district alignments that had existed for ninety-four years from 1872-1964 and is not a significant break with Maryland's political history. In addition, the inclusion of a portion of Carroll County in the Eight Congressional District with a portion of Montgomery County is a reconnection of boundary lines that existed at the time of the formation of Carroll County. Portions of Montgomery County also shared the Sixth Congressional District with Carroll County for fifteen congressional elections spanning 30 years from 1972-1980, 1982-1990, and 2002-2010.

V. The Principal Factors in Creating Maryland's Congressional Boundaries

The delineation of congressional district boundary lines by the Maryland General Assembly after the report of the decennial U.S. Census requires a careful consideration and balancing of multiple factors and is subject to a variety of influences, the most significant being population changes and geography.

In Maryland, congressional district boundaries are confined by, limited by, and constrained by, the state's unique shape, relatively small geographic size and widely disparate population densities that have fluctuated dramatically in the 220 years between the 1790 Census and the 2010 Census.

Marylanders, and their political leadership, have always been aware of, and sensitive to, the state's diverse geography, the state's distinct regions, and changing population patterns.

A. Population Migration and Demographic Changes

Population changes in the State of Maryland are presented in another set of Exhibit Maps reflecting the state's population from the 1800 Census to the 2000 Census. The red and blue areas of each Census Map of Maryland represent fifty percent of the state's population. This set of maps vividly shows the pressure generated by population shifts on the process and decision-making

involved in the shaping of congressional district boundary lines. Notably, the sixty-year general trend of increasing population in the western side of Maryland is continuing and will influence future redistricting plans.

These population shifts have generated changes in legislative and congressional district boundary lines throughout the history of Maryland. The adoption of each of Maryland's four state constitutions was accompanied by changes in the apportionment of the Maryland General Assembly as was the addition of four counties in 1789, 1837, 1851, 1867, and 1872. Congressional district boundary lines were changed to roughly reflect population shifts when the size of the state's delegation to the House of Representatives has changed as a result of the federal apportionment process.

Subsequent to the reapportionment court decisions of the 1960s, Maryland's congressional districts have had to be altered in an effort to achieve population equality because congressional districts do not have the same population gains and losses during the ten-year periods between the controlling U.S. Census. The population contained within congressional district boundary lines at the time the congressional district boundary lines were approved often varies significantly with the population within their respective boundary lines as found by the ensuing federal census. Accordingly, based on census data, congressional district boundary lines must change every ten years. It is also manifest that if one congressional district boundary line is changed that change will have an effect on the boundaries of other congressional districts. With regard to the current Sixth Congressional District, an analysis cannot simply start with a preferred boundary line for that district alone. Indeed, based on my own experience as well as academic research, constructing a congressional district map is a web with changes to one boundary line tugging and pulling on other boundary lines and rippling through the remainder of the congressional districts in the state.

B. Geography and Topography

Central to Maryland's culture, as well as its economic and political development, is the relationship of the land to navigable bodies of water. The Chesapeake Bay divides the land mass of the state into an Eastern Shore and a Western Shore that prompted the consideration of geography in the 18th and 19th century allocation of elective offices and operation of government. The rivers and tributaries that flow into the Bay often form the boundary lines between counties and political districts and were often the basis for political boundary lines as well as instrumentalities of commerce and sources of water for agriculture, power, and life for nearby communities.

The Potomac River that is the southern boundary line of the Sixth Congressional District separating Maryland from the Commonwealth of Virginia is a prominent example of the importance of a waterway. The Charter of the Province of Maryland granted to the Calvert family by King Charles of England in 1632 described the dividing line between the Commonwealth of Virginia and the Province of Maryland from its western point, "the first Fountain of the River of Pattowmack [Potomac], thence verging toward the South, unto the further Bank of the said River, and following the same on the West and South, unto a certain Place, called Cinquack, situate near the Mouth of the said River, where it disembogues into the aforesaid Bay of Chesapeake."[19]

The approximately 405 mile length of the Potomac River was, and remains, significant to the development and vitality of Western Maryland and binds the counties of the Sixth Congressional District to a common heritage and concerns. The counties of the Sixth Congressional District share this lengthy, meandering, aquatic boundary line for hundreds of miles from Maryland's most westerly point to slightly above Great Falls located in Montgomery County

[19] Charter of Maryland art. III (1632).

only a few miles from the District of Columbia. In the quest to expand westward and exploit the natural resources of the region, the Potomac River was an important transportation route for water conveyance and a guiding path for railroad and surface road routes necessary to support population growth and economic development.

In the early development of Maryland, the construction of state roads facilitated the linkage between agriculture products and natural resources and the urban, commercial centers emerging around the Port of Baltimore and the District of Columbia. Much of the political and economic activity in Maryland revolved around the competition between The Chesapeake and Ohio Canal Company and the Baltimore and Ohio Railroad in their respective efforts to reach Western Maryland and beyond to the Ohio Valley.[20] This competition redounded to the benefit of the counties in the Sixth Congressional District, just as the interstate highway system and improved state roads link the district to important centers of population and markets. As described by the National Park Service, the beginning of the C&O Canal was "as a dream of passage to Western wealth. Operating for nearly 100 years the canal was a lifeline for communities along the Potomac River as coal, lumber and agricultural products floated down the waterway to market."[21]

VI. Demographic, Economic and Transportation Factors Supporting the Sixth Congressional District

The historical, economic, cultural, social and political connections between Montgomery County and the other counties in the Sixth Congressional District, especially Frederick County is unmistakable and undeniable. Data from the U.S. Census Bureau, the Maryland Department of Planning, the Maryland Department of Labor, Licensing and Regulation, the Maryland

[20] *See generally* Robert J. Brugger, Maryland A Middle Temperament 1634-1980, at 202-06 (The Johns Hopkins Univ. Press 1988).
[21] National Park Service, https://www.nps.gov/choh/index.htm (last visited May 8, 2017).

Department of Transportation and other state agencies along with information compiled by county and municipal offices of planning show the depth of these connections.

A. Migration Patterns

The westward movement of population is not only the story of the historical development of people in Maryland but also similar migration patterns continue in the 21st century. A substantial number of individuals previously living in Montgomery County have moved into Frederick County as well as the Western Maryland counties over recent decades.

The U.S Census Bureau reported that preceding the 2002 Maryland congressional redistricting act, 11,165 individuals moved into Frederick County from Montgomery County from 1995 to 2000.[22] This number represented the largest source of in-migration into Frederick County from any jurisdiction and 27.4% of all in-migration and 51.95 % of all intra-state migration.[23] Continuing the trend, in the five years preceding the 2011 redistricting act, the American Community Survey conducted by the U.S. Census Bureau again found that 45.4% of the intra-state migration and 25.8% of all migration into Frederick County was from individuals previously residing in Montgomery County.[24]

B. Commuting Patterns

The 2008 Frederick County Trends report shows that 23.3% of commuters in Frederick County traveled to Montgomery County every day based on the U.S. Census Journey To Work

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[22] Maryland Department of Planning, Planning Data Services, "Frederick County, 1995 to 2000 Census Based Migration Flows" (August 2003), available at https://planning.maryland.gov/msdc/census/cen2000/Migration/county_to_county/fred_migr9500.pdf.

[23] *Ibid.*

[24] Maryland Department of Planning, "Frederick, Migration Flows From 2006 to 2010 American Community Survey," available at http://www.mdp.state.md.us/MSDC/American_Community_Survey/2006-2010/migration/Flow/fred.pdf.

2000 report.[25] The Maryland Department of Transportation Maryland Traffic Maps show a current annual average daily traffic of over 85,000 vehicles on Interstate 270 between Frederick County and Montgomery County.[26] A review of the department's interactive map vividly demonstrates the commuting connection between the counties as well as its topographic and land use relationships. These commuting relationships have existed for the past two decades.

C. Economic Connections

The substantial economic connection of Montgomery County to Frederick County and the Western Maryland counties is anchored by the activities of the federal government and the Interstate 270 (I-270) Technology Corridor. The research centers of the National Institute of Health in Montgomery County and Fort Detrick in Frederick County are examples of employment opportunities that draw people in both directions through the I-270 and Interstate 70 corridors.

The Maryland Department of Labor, Licensing and Regulation Office of Workforce Information and Performance reports that 26,729 residents of Frederick County (23.7% of the total workforce) were employed in Montgomery County in April 2016, over 22,500 more than work in Washington County to the west, the next highest destination.[27]

The University of Maryland System spans the Sixth Congressional District with Frostburg State University in Frostburg, a campus of the University of Maryland in Hagerstown and the

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[25] Frederick County, "Trends and Issues" 30 (April 2008), available at https://frederickcountymd.gov/DocumentCenter/View/280201.

[26] The Maryland Department of Transportation's Maryland Annual Average Daily Traffic (AADT) Locator interactive map is available at http://maryland.maps.arcgis.com/apps/webappviewer/index.html?id=223148a698214294a7b43cd612a4c67d.

[27] "Commuting Patterns: Frederick Workforce Region" (April 2016), available at https://mwejobs.maryland.gov/admin/gsipub/htmlarea/uploads/Frederick_WorkforceRegion_Commuting_Patterns.pdf (last accessed May 8, 2017).

Universities at Shady Grove campus in Montgomery County.[28] Strong community colleges in every county in the Sixth Congressional District enhance the opportunities for the residents of the district.[29]

D. Agricultural Heritage and Preservation

Montgomery County shares the rich soils of the Piedmont Plateau with other counties in the Sixth Congressional District and was a major producer of agricultural products throughout its history.[30] Even today, notwithstanding its status as the most populous Maryland jurisdiction, Montgomery County retains its agricultural heritage. Montgomery County has the highest percentage of farmland under agricultural land preservation easements in the nation.[31] The county has met its goal of over 70,000 acres of farmland preserved and has more acreage devoted to agricultural preservation programs than any county in the country.[32] While there is high-density development in the southern portion of the county and along most of its transportation corridors, the portion of Montgomery County in the Sixth Congressional District has significant agriculture areas. The attached map entitled "Montgomery County: Agriculture Preservation" prepared by the Montgomery County Office of Agriculture depicts the various preservation programs and shows that the protected farmland is located primarily in the northern portions of the county. Appendix 3. The large northwestern area where land is protected from development under a variety of preservation programs is entirely within the Sixth Congressional District.

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[28] University System of Maryland, "Institutions," http://www.usmd.edu/institutions/, last accessed May 8, 2017.

[29] Maryland Manual On-Line, "Maryland At A Glance: Community Colleges," http://msa.maryland.gov/msa/mdmanual/01glance/html/colcom.html (last accessed May 8, 2017).

[30] *E.g.* Scharf, Vol. I at 644-45.

[31] The Office of Land Preservation, Montgomery County, "Agricultural Preservation" (November 21, 2016), https://www.montgomerycountymd.gov/agservices/agpreservation.html (last accessed May 8, 2017).

[32] *Ibid.*

E. Culture and Tourism

Acquired in 1938, the C&O Canal became a National Historic Park in 1971.[33] This 184.5-mile national treasure provides educational and recreational opportunities for the public. A park service map, which can be accessed at *www.nps.gov/choh*, illustrates the location of the major features of this important park. Five of the six visitor centers are located in the Sixth Congressional District with the sixth located only a few miles south of the district.

VII. Conclusions

- There was a rational and logical basis for the configuration of the Sixth Congressional District in the congressional redistricting plan passed by the Maryland General Assembly on October 18, 2011, and approved by the Governor of Maryland on October 20, 2011.
- The current Sixth Congressional District is consistent with congressional district boundary lines established by the Maryland General Assembly since the first federal election was conducted in 1789.
- The current Sixth Congressional District, following the bends, turns and flow of the Potomac River from the state's furthest southwest corner to just above the Great Falls in Montgomery County, is a natural linkage of geography, culture, economy and the state's history.
- The inclusion of a portion of Carroll County in the First Congressional District with the northern portions of Baltimore County and Harford County as well as Cecil County, represents a return to historical congressional district boundary configurations that existed

[33] John G. Parsons, Chesapeake & Ohio National Historical Park, "General Plan" 4 (January 30, 1976); available at https://www.nps.gov/choh/learn/management/upload/C-O-Canal-NHP-General-Plan-1976.pdf (last accessed May 8, 2017).

for ninety-four years from 1872-1964 and is not a significant break with Maryland's political history.

- The inclusion of a portion of Carroll County in the Eight Congressional District with Montgomery County represents a return to the congressional district boundary lines that existed at the time Carroll County was formed and also other congressional district configurations shared by both counties.

Date: May 6, 2017

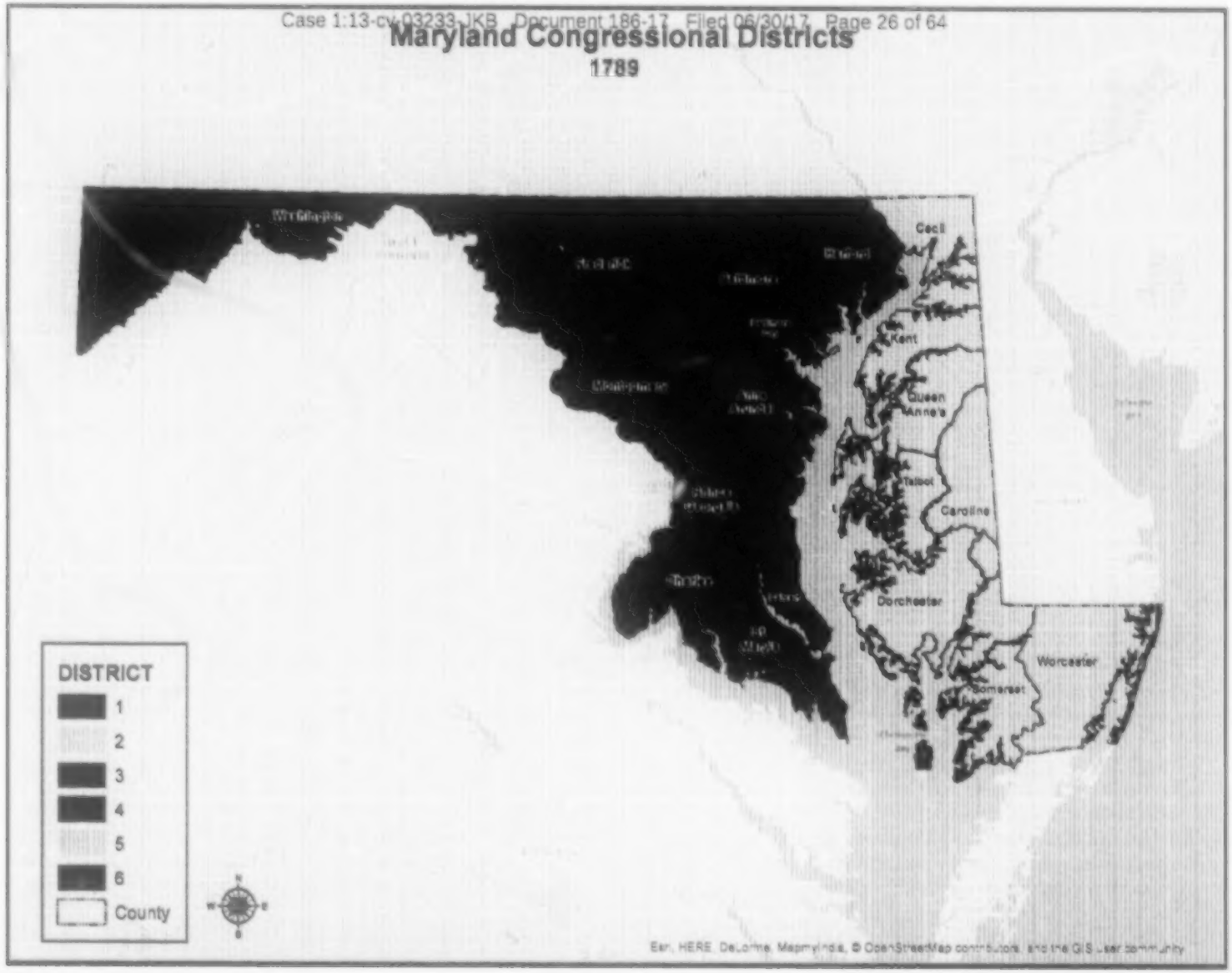
John T. Willis

APPENDIX 1

MAP 1

Maryland Congressional Districts

1789

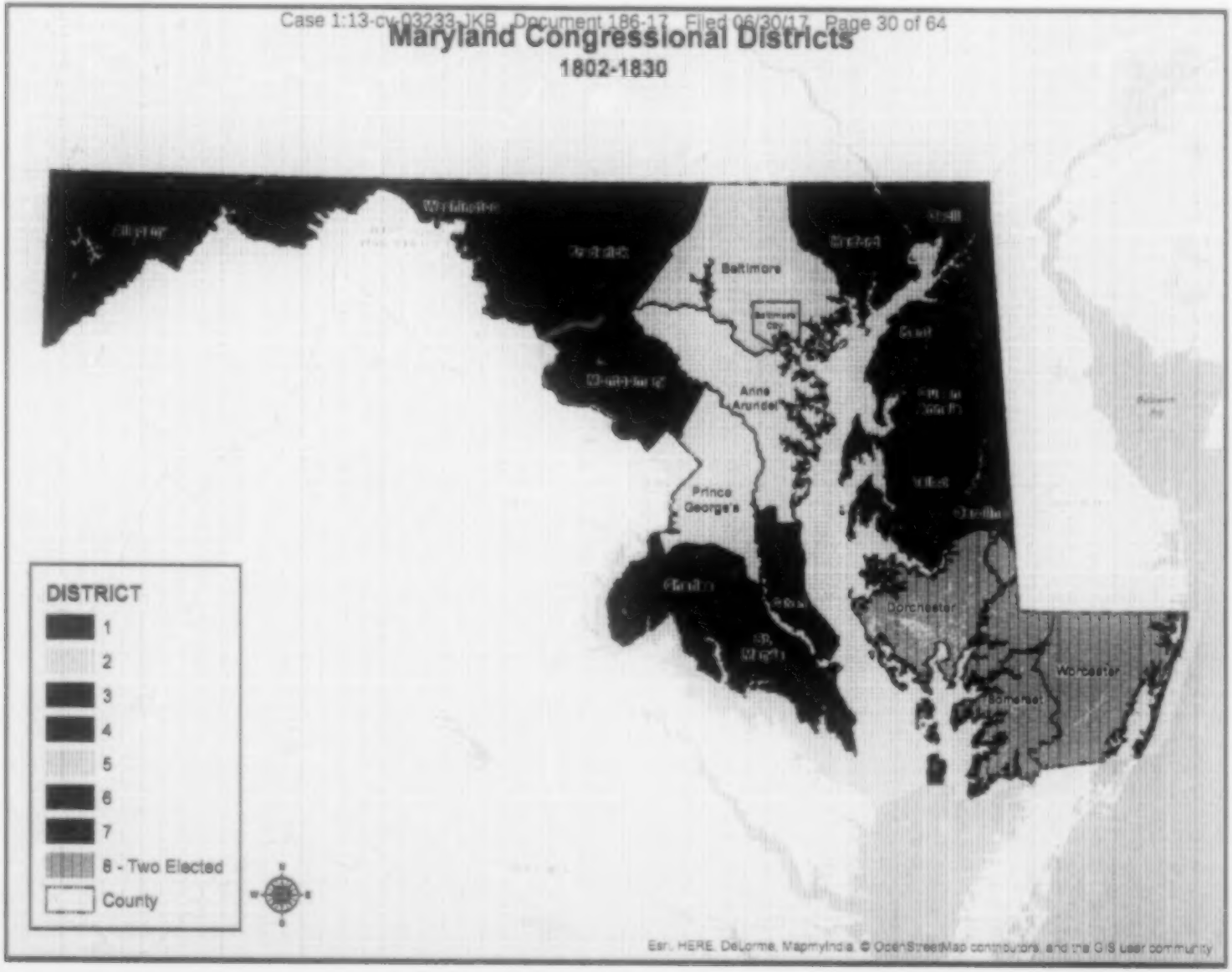


MAP 2

Maryland Congressional Districts
1792-1800

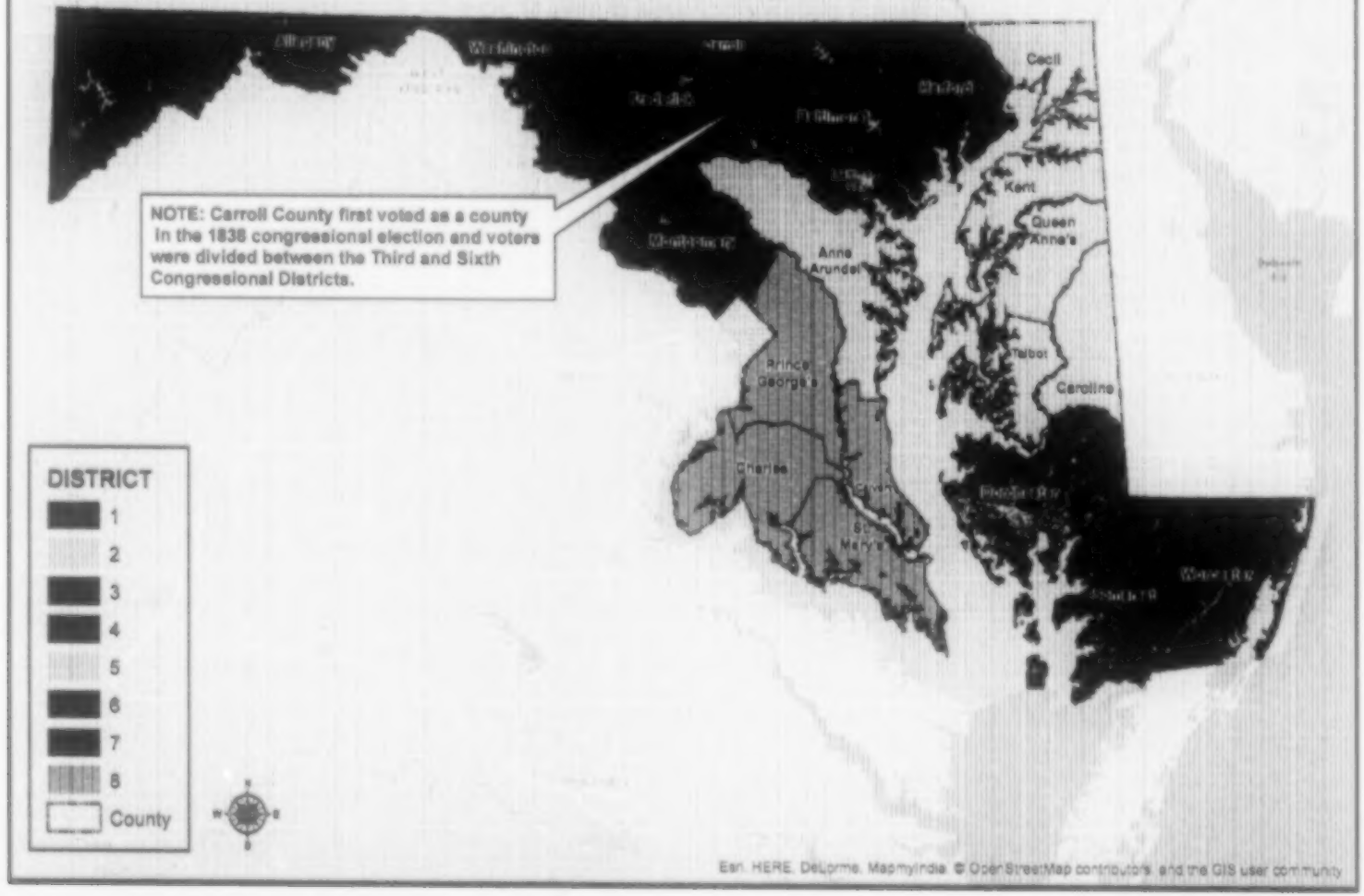
MAP 3

Maryland Congressional Districts
1802-1830



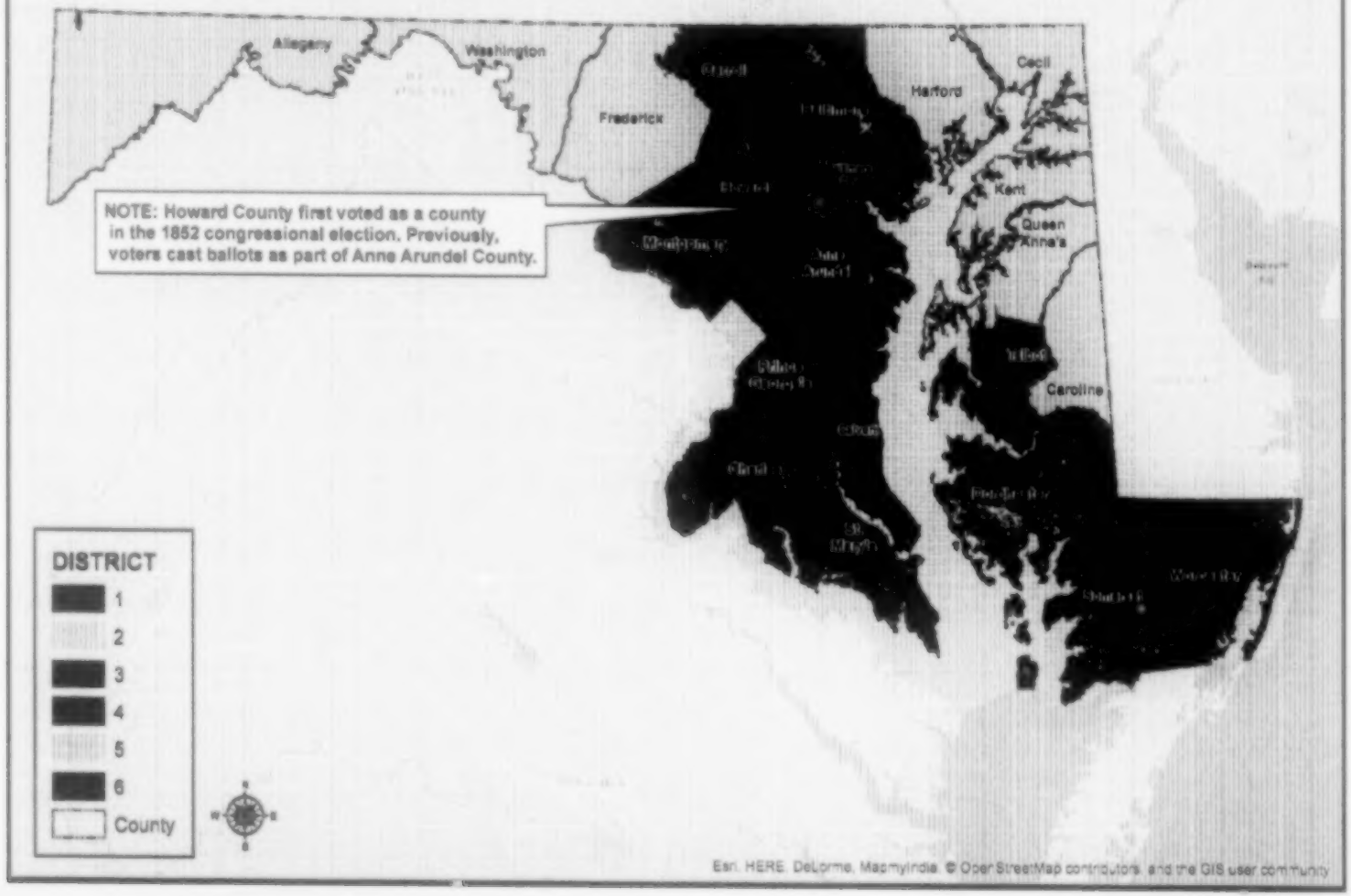
MAP 4

Maryland Congressional Districts
1832-1840



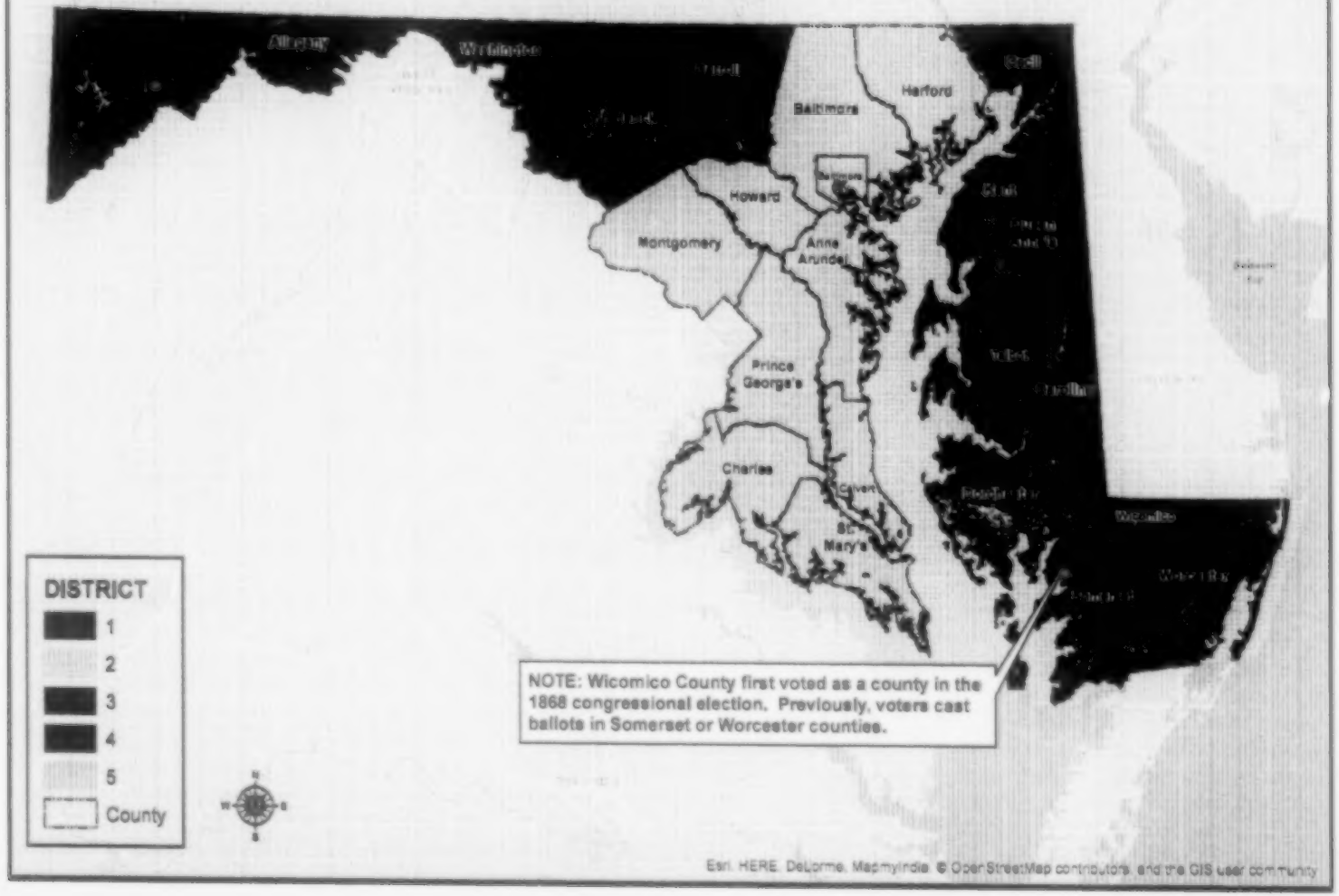
MAP 5

Maryland Congressional Districts
1842-1860



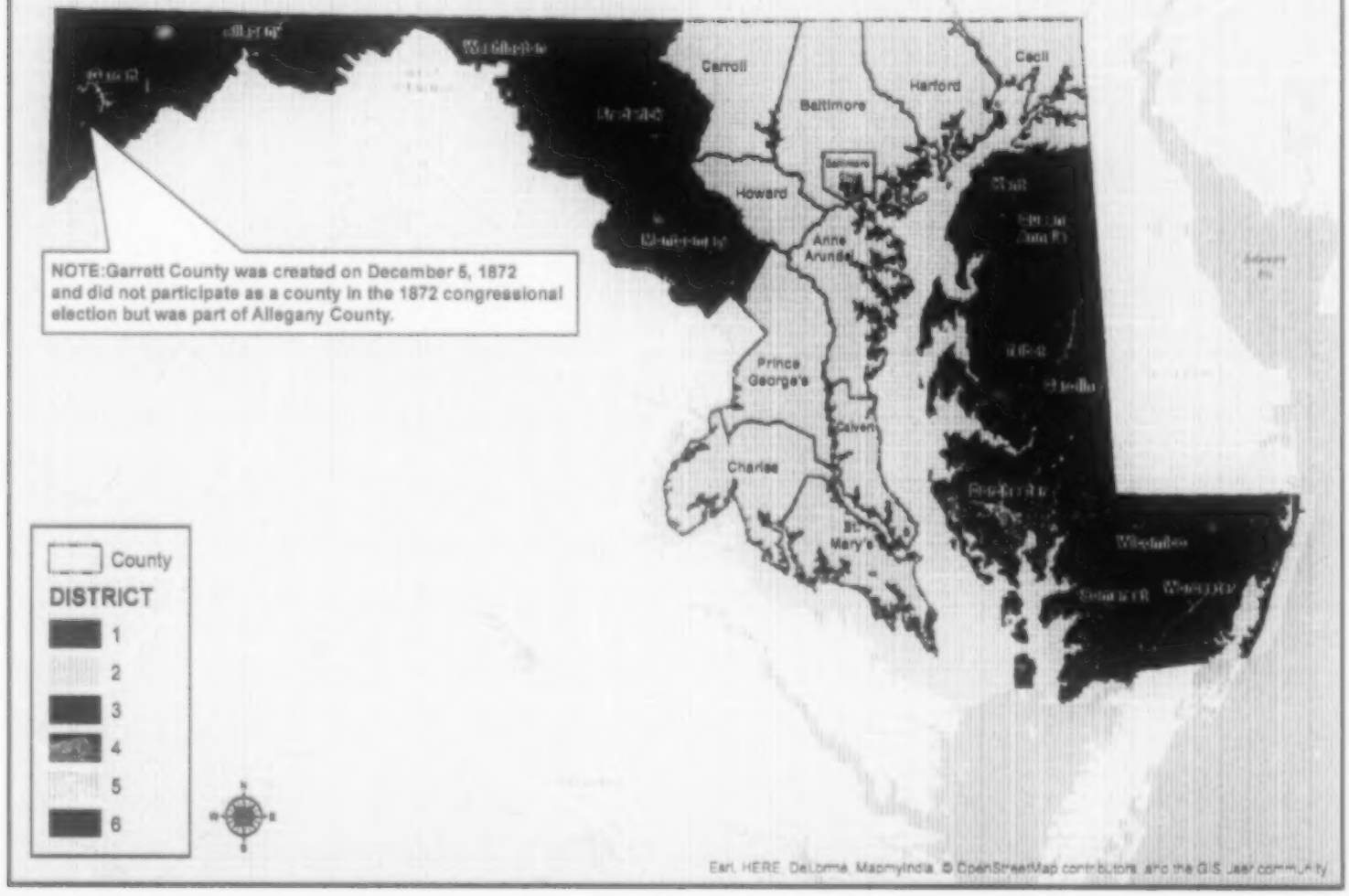
MAP 6

Maryland Congressional Districts
1862-1870



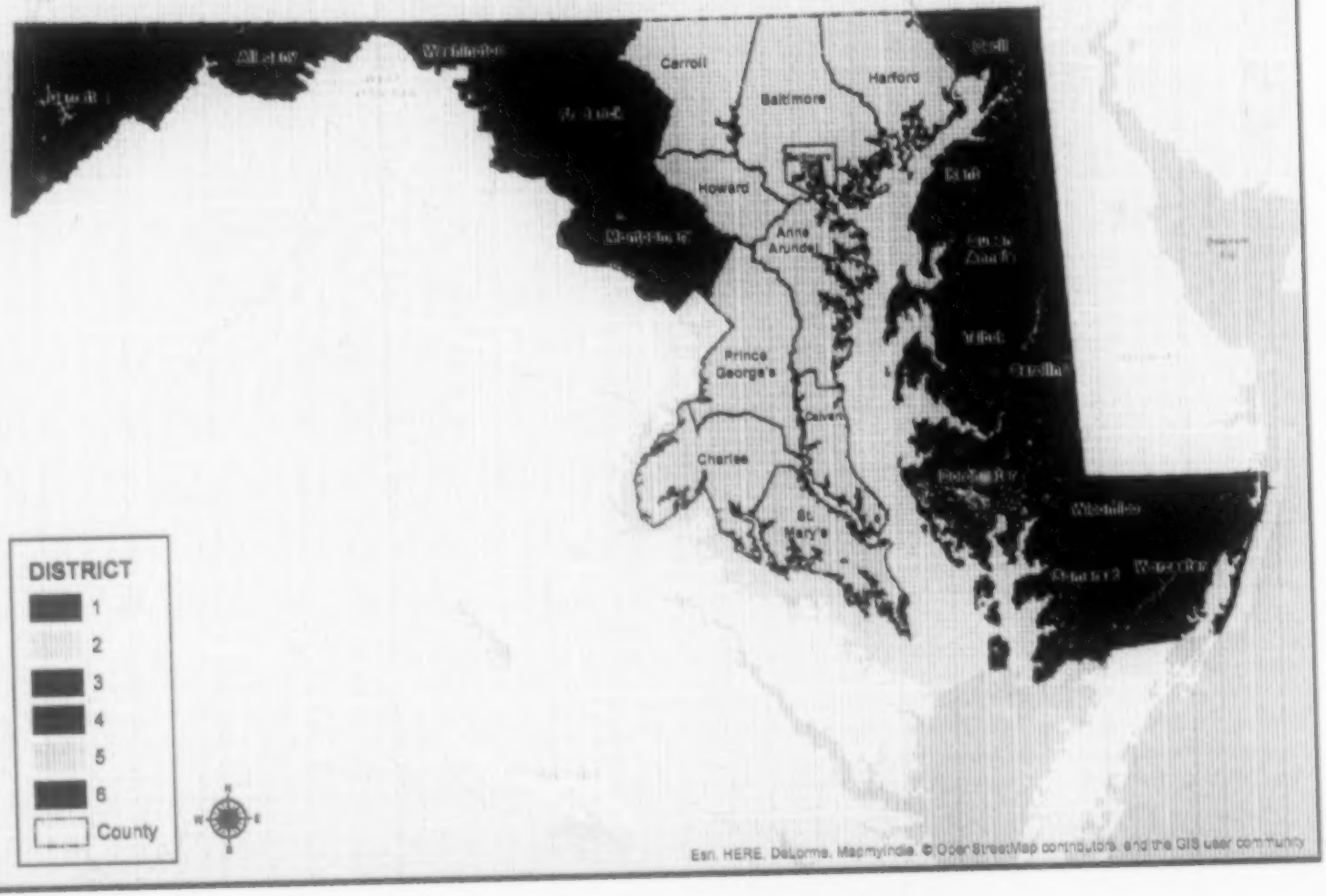
MAP 7

Maryland Congressional Districts
1872-1900



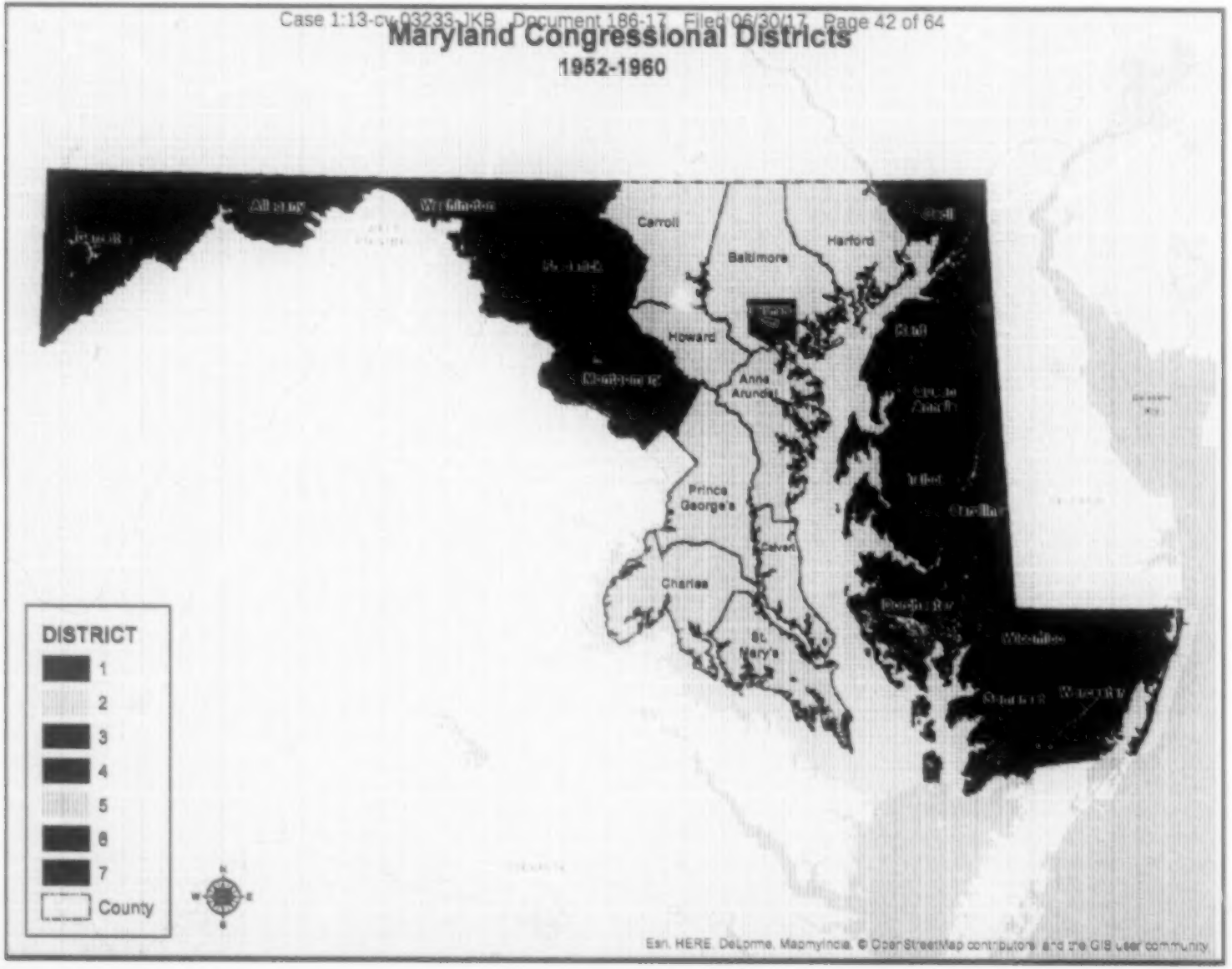
MAP 8

Maryland Congressional Districts
1902-1950



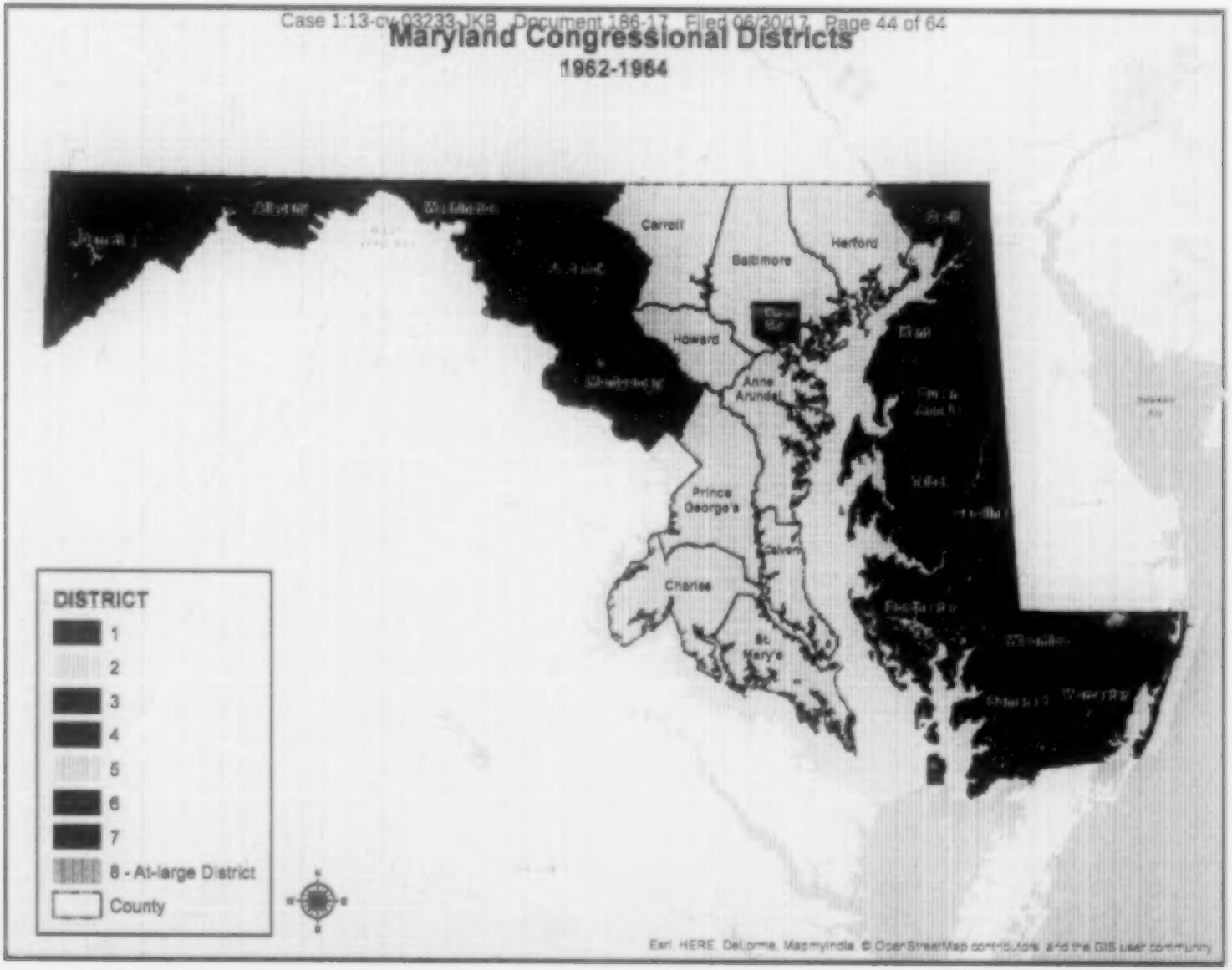
MAP 9

Maryland Congressional Districts
1952-1960



MAP 10

Maryland Congressional Districts
1962-1964



MAP 11

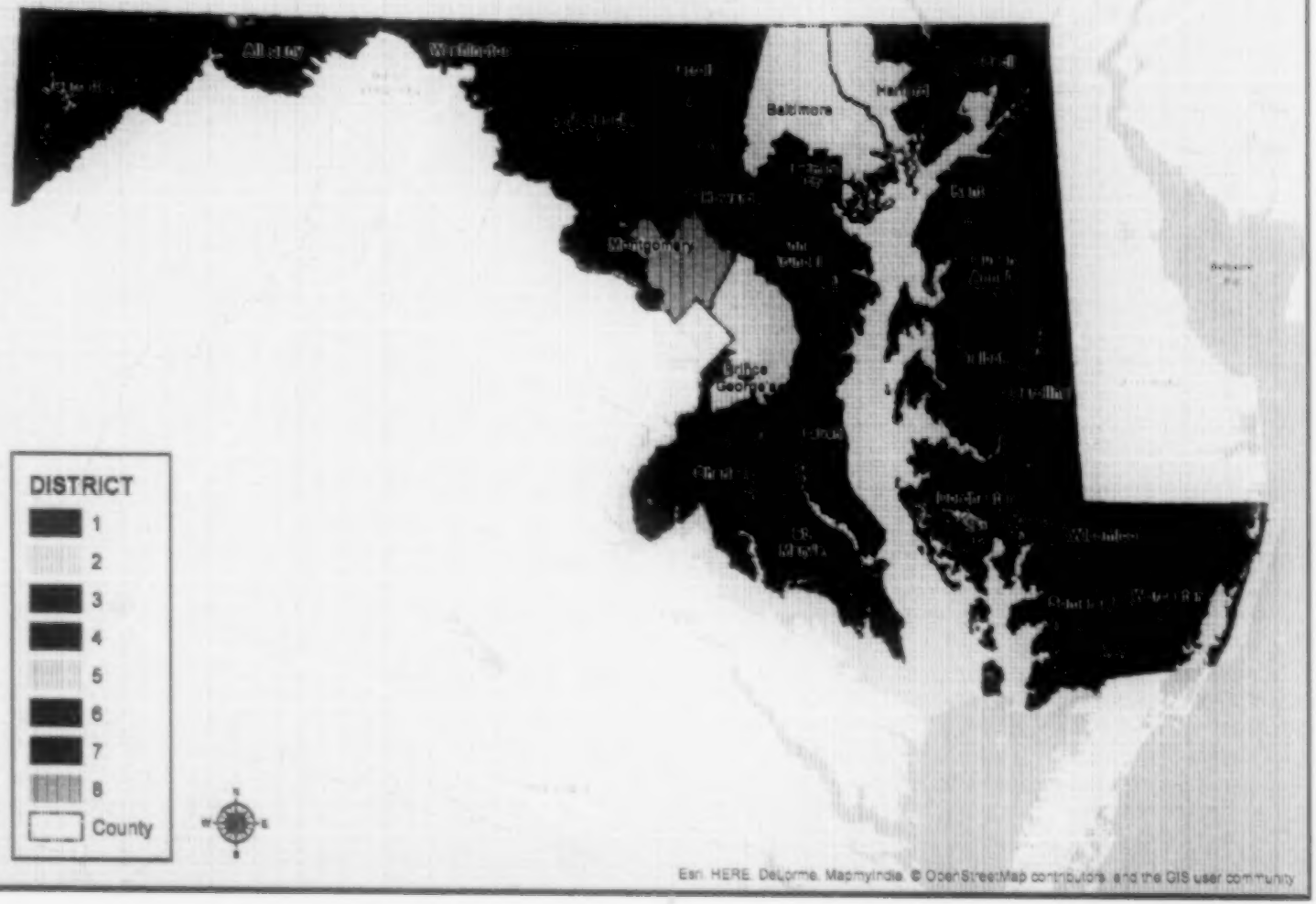
Maryland Congressional Districts
1966-1970

MAP 12

Maryland Congressional Districts
1972-1980

MAP 13

Maryland Congressional Districts
1982-1990



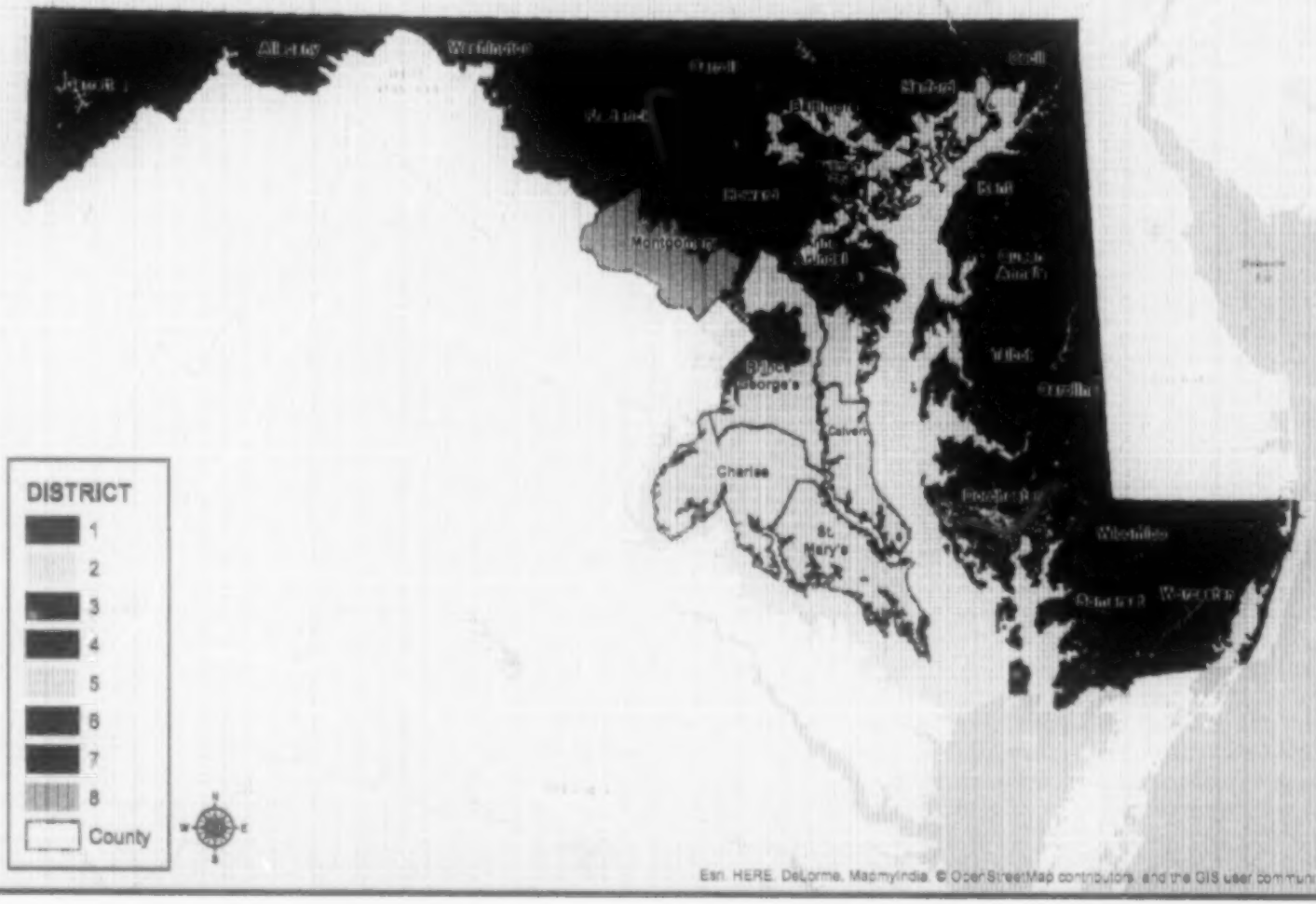
MAP 14

Maryland Congressional Districts
1992-2000

MAP 15

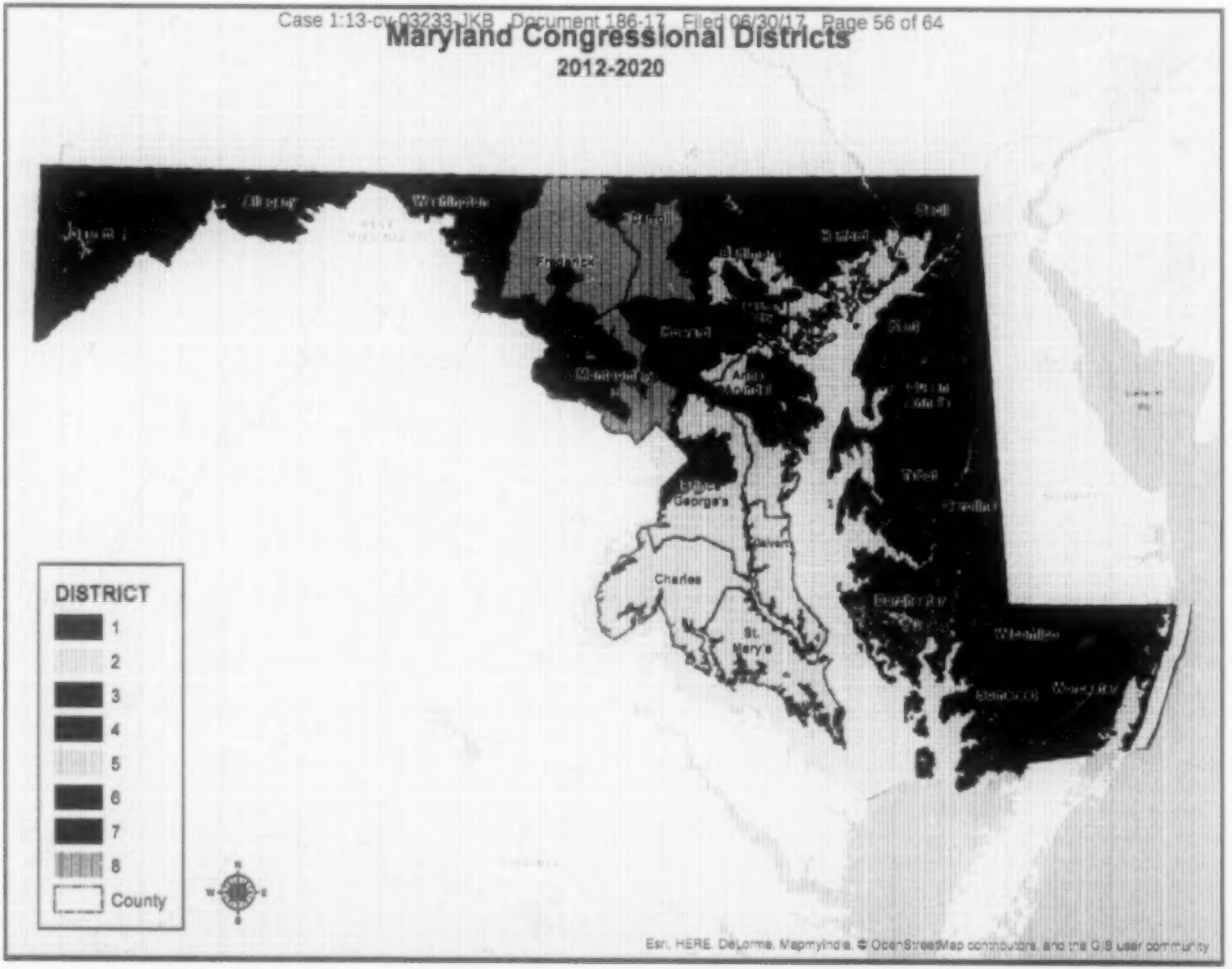
Maryland Congressional Districts

2002-2010



MAP 16

Maryland Congressional Districts
2012-2020



APPENDIX 2

1800 CENSUS: MARYLAND POPULATION

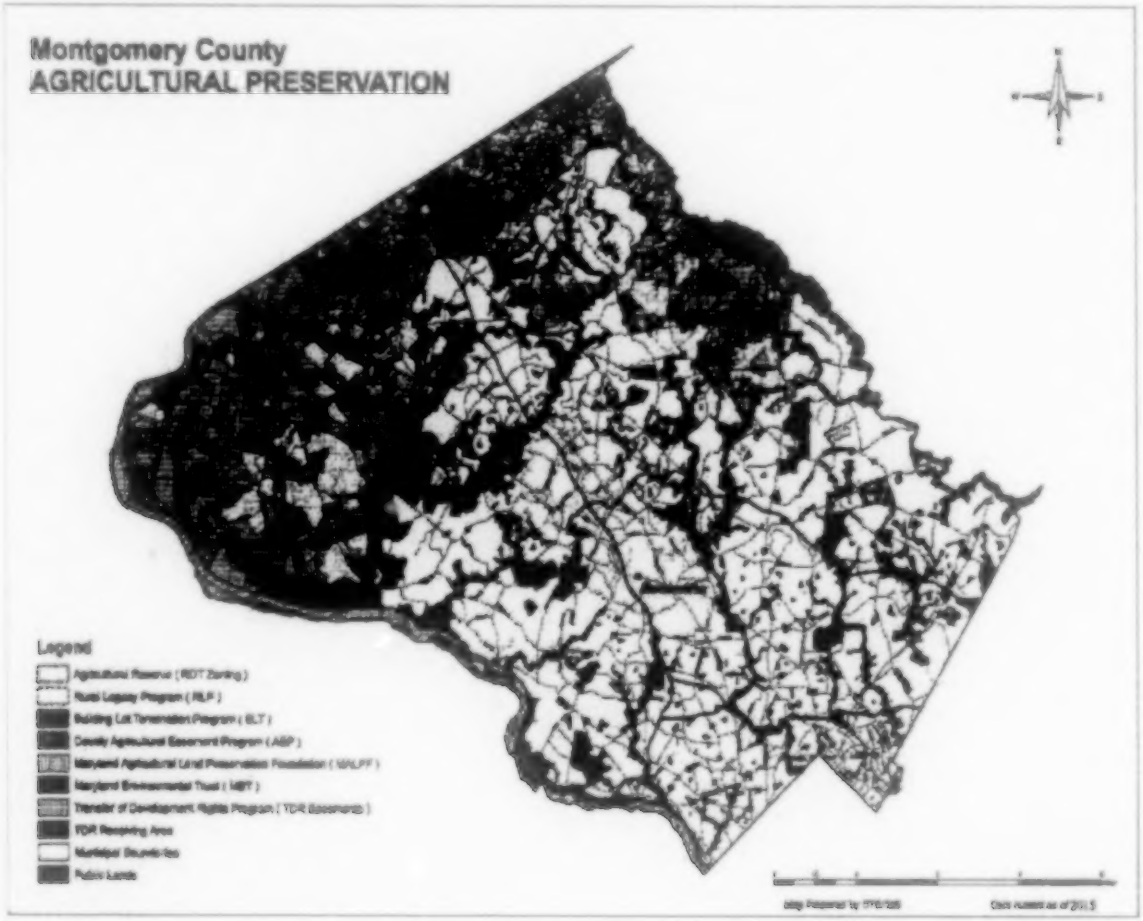
1850 CENSUS: MARYLAND POPULATION

1900 CENSUS: MARYLAND POPULATION

1950 CENSUS: MARYLAND POPULATION

2000 CENSUS MARYLAND POPULATION

APPENDIX 3


Montgomery County
AGRICULTURAL PRESERVATION
Legend
Public Lands

Eligible Active Voters on Precinct Register

Election: 2010 GUBERNATORIAL GENERAL ELECTION
Election Date: 11/2/10
Congressional District Code: All

Congr. Dist: 01	Dems	Reps	Grn	Con	Lib	UNA	OTH	Subtotal
Anne Arundel	28217	34103	193	20	229	13718	33	76513
Baltimore County	20483	20219	134	14	155	5924	641	47570
Caroline	7407	7461	36	5	59	2949	120	18037
Cecil	24530	22853	143	25	208	11218	860	59837
Dorchester	10362	6962	26	2	41	2185	150	19778
Harford	29456	37245	145	18	276	11426	354	78920
Kent	6170	4476	42	3	35	1621	135	12482
Queen Anne's	11059	13962	64	8	95	4290	207	29705
Somerset	7222	4329	21	3	26	1537	120	13256
Talbot	10166	11073	51	7	79	3615	315	25306
Wicomico	25366	19785	113	9	151	8176	668	54268
Worcester	15715	13903	68	5	105	5273	441	35510

Congr. Dist: 02	Dems	Reps	Grn	Con	Lib	UNA	OTH	Subtotal
Anne Arundel	31730	17744	139	15	196	11589	30	61443
Baltimore City	49583	4830	114	5	85	5629	204	60250
Baltimore County	134771	54578	522	38	666	29692	2550	222837
Harford	25544	15135	91	18	173	8089	272	49322

Congr. Dist: 03	Dems	Reps	Grn	Con	Lib	UNA	OTH	Subtotal
Anne Arundel	71718	53536	400	32	552	30096	61	156395
Baltimore City	70010	16964	562	9	332	16364	431	104662
Baltimore County	72403	30171	364	14	382	16919	1380	121633
Howard	26721	13611	134	14	173	10247	489	51389

Congr. Dist: 04	Dems	Reps	Grn	Con	Lib	UNA	OTH	Subtotal
Montgomery	91097	37059	389	18	397	33750	180	162890
Prince George's	223283	13537	204	30	239	17995	10279	265567

Eligible Active Voters on Precinct Register

Election: 2010 GUBERNATORIAL GENERAL ELECTION
Election Date: 11/2/10
Congressional District Code: All

Congr. Dist: 06	Dems	Reps	Grn	Con	Lib	UNA	OTH	Subtotal
Anne Arundel	14042	15587	108	9	137	6852	15	36750
Calvert	23171	22464	119	11	149	9860	526	56300
Charles	50767	24667	131	19	197	13609	579	89969
Prince George's	164522	31917	444	25	464	23026	11390	231788
Saint Mary's	24632	23454	160	14	191	10246	526	59213

Congr. Dist: 08	Dems	Reps	Grn	Con	Lib	UNA	OTH	Subtotal
Allegany	16606	19827	130	12	119	5305	449	42450
Baltimore County	9021	11289	95	3	86	3296	340	24130
Carroll	33156	54327	255	51	304	16309	799	105201
Frederick	52181	57958	359	32	453	26637	78	137698
Garrett	4994	11379	39	3	45	1788	186	18434
Harford	7100	10721	38	1	63	2795	93	20811
Montgomery	5315	5496	24	0	49	2785	10	13679
Washington	31340	37027	219	20	234	14347	89	83276

Congr. Dist: 07	Dems	Reps	Grn	Con	Lib	UNA	OTH	Subtotal
Baltimore City	170183	10433	738	15	284	18238	705	200596
Baltimore County	54320	12383	211	11	190	8875	709	76699
Howard	59324	41408	306	27	398	23912	1321	126694

Congr. Dist: 08	Dems	Reps	Grn	Con	Lib	UNA	OTH	Subtotal
Montgomery	227783	80698	1019	41	918	86052	351	396862
Prince George's	15777	1187	62	0	29	2040	1050	20145
	1,957,279	925,614	8,392	606	8,984	526,274	39,136	3,466,287

Maryland State Board of Elections

Official 2014 Gubernatorial General Election results for Governor / Lt. Governor

Last Updated 12/02/2014 03:17:03 PM

Return to Election Result Index

NR: not reported

Governor / Lt. Governor

(Vote for One) County Break Down

This table may scroll left to right depending on the screen size of your device.

Name	Party	Early Voting	Election Day	Absentee / Provisional	Total	Percentage
Brown/ Ulman	Democratic	164,219	608,476	46,195	818,890	47.2%
Hogan/ Rutherford ✔	Republican	136,781	710,854	36,765	884,400	51.0%
Quinn/ Gaztanaga	Libertarian	3,424	20,407	1,551	25,382	1.5%
Smith/ Tucker (Write In)	Democratic	96	181	6	283	0.0%
Tinus/ Richmond (Write In)	Unaffiliated	1	16	3	20	0.0%
Other Write-Ins	N/A	1,073	2,903	226	4,202	0.2%

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

O. JOHN BENISEK, *et al.*,

Plaintiffs,

v. Case No. 13-cv-3233

LINDA H. LAMONE, *et al.*,

Defendants.

Supplemental Expert Report of Allan J. Lichtman
June 2, 2017

I. Reply Report of Dr. Morrison

A. Contradictions in Dr. Morrison's Reports on the Central Issue of Intent

In my opening report, I noted that Dr. Morrison lacks qualifications to analyze the intent of decision-makers. He now concedes this critical point in his reply report, stating, "I am not an expert on intent." (Morrison Reply Report. p. 18) Yet he continues to opine on intent.[1]

B. The Criteria in Dr. Morrison's *Fletcher* Report Still Prove That Current CD6 Represents a Community of Interest

In my opening report I examined the transportation, commuting, and jobs criteria that Dr. Morrison found sufficient in his December 16, 2016 Declaration to conclude that CD5 in the *Fletcher* plaintiffs' plan represents a community of interest. Based on Dr. Morrison's criteria, the evidence is much stronger that CD6 under the state's 2011 plan represents an *existing community of interest*. In response, Dr. Morrison states says that, "My point in Fletcher was that there was a corridor between Baltimore and Washington, D.C. that 'has grown in population and integration in the last three decades.'" (Morrison Reply Report, p. 22) The quoted phrase is from paragraph 3 of his December 16 Declaration, which examined in full demonstrates that the extracted phrase is supported by analysis that refers only to transportation, commuting, and jobs (extracted phrase in bold):

[1] Dr. Morrison also asserts that I relied on "anecdotal information, not hard demographic data" (Morrison Reply Report, p. 9,) ignoring the 20 analytic, quantitative tables in my opening report.

> "The scientific knowledge about functional regions applies to the Maryland Corridor, the area of intense urban development between Baltimore and Washington D.C. That corridor **has grown in population and integration in the last three decades**. Workers routinely flow among counties, **and in Howard, Prince George's and Charles Counties** more of the employed residents hold jobs outside the county than within their county of residence. Only 38-40 percent of workers are employed within Charles, Howard, and Prince Georges County and a slightly larger 59 percent in Montgomery County." (¶ 3)

Dr. Morrison further states that "As I noted in my Fletcher declaration, there are significant links between Baltimore and Washington, D.C. beyond commuting patterns." He states that 1) "the African-American and Hispanic share of registered voters in this area had increased significantly between 2000 and 2010;" that 2) "This migratory influx of African-Americans and Hispanics to the suburbs between Washington, D.C. and Baltimore was part of a national demographic trend toward more racially diverse suburbs, fueled by minority suburbanization;" and that 3) "**These minority populations were younger and replacing** older Caucasian voters in these suburban communities." (Morrison Reply Report, pp. 22-23)

Beyond the problem of trying to define communities of interest by race, Dr. Morrison, without informing the reader, has switched his references in each of these citations from his December 16 Declaration establishing a community of interest in CD5, to an earlier Declaration on a different topic filed on December 7, 2016.[2] The December 7 Declaration does not assess whether any proposed congressional district in *Fletcher* represents a community of interest. Rather its very different purpose was to assess whether minorities were sufficiently numerous and concentrated in Maryland for 3 majority-minority districts -- "Prong 1" of the so-called three-pronged "Gingles factors" in voting rights analysis. Thus, Dr. Morrison writes in his statement of purpose:

> "The primary focus of this analysis is Blacks' increasing presence among eligible voters in numerous communities across the State of Maryland, and the prospect of forming three Congressional districts to recognize and acknowledge these areas of Black voting strength, thereby affording minority voters the opportunity to elect candidates of their choice." (Morrison, December 7 Declaration, ¶ 2)

Dr. Morrison's December 16 Declaration does not cite his December 7 Declaration and does not mention the words African American, black, Hispanic, Latino, Caucasian, or voter. It mentions the word suburbs only in the context of transportation, commuting, and jobs.

Finally, in his reply report, Dr. Morrison returns to his December 16 Declaration saying, "My analysis showed that the minority communities in this 'Maryland corridor' had 'common needs' and 'shared concerns,' making them a 'natural community of shared interest.'" The extracted phrases are from a paragraph that again refers only to jobs, commuting, and transportation (referenced phrases in bold):

> "The counties between Baltimore and Washington D.C. comprise a regional corridor that is functionally integrated by regionwide transportation linkages facilitating extensive daily

[2] Morrison Declaration, *Fletcher v. Lamone*, 11-cv-03220 (D. Md. Dec. 7, 2011) (ECF No. 43-18).

flows of commuting. The commuters between suburban residences and workplaces throughout this **regional corridor** constitute a natural community of interest defined by the **common needs and the shared concerns** of workers who reside within the vast **commutershed between Baltimore and Washington** D.C. **Plaintiffs' Proposed** Congressional District # 5 encompasses this **natural community of shared interest."** (Morrison, December 16 Declaration, ¶ 1).

C. Dr. Morrison's "Objective Demographic Facts" are Neither Objective Nor Necessarily Facts

In response to my critique of Dr. Morrison's "objective demographic facts" relating to matters such as cultural and educational institutions, and media in western Maryland, Dr. Morrison responds only in a footnote saying that he only tried to show that western Maryland has its own institutions. However, without analysis, these institutions do not establish a distinctive community of interest in western Maryland. He misleadingly characterizes Frostburg State University as having "some students" from outside western Maryland, although Table 6 of my opening report demonstrates that nearly two-thirds of the students are from outside western Maryland. He does not rectify his inaccurate characterization of WWPX as being in Hagerstown, MD rather than in West Virginia.[3] He does not consider the "objective demographic fact" of voting on the 2011 congressional plan in the 2012 general election.

In his reply report, Dr. Morrison also highlights the importance of examining the "objective demographic data" of split Census places in CD6. He says that "In the prior version of CD6 (used for the 111th Congress), 4 of 35 (11 percent) communities of interest (also known as "Census Places") were split by the boundaries of the Sixth District. In the current version of CD6 (used for the 113th Congress), 13 of 22 (59 percent) of communities of interest were split by the boundaries of the Sixth District." (Morrison Reply Report, pp. 5-6)

He does not provide a citation for these claims, and his analysis of split Census places in the 2011 CD6 is not accurate. According to data from the U. S. Census for the 113th Congress, there are not 22 "Census Places" in Maryland CD6, but rather 148.[4] Thus the percentage of split Census places is 13 of 148 or 9 percent, not 59 percent. Similarly, the Census Report on Census places for the 108th Congress (under the 2001 plan) indicates that there were not 35, but 75 places in prior CD6.[5] Thus, the percentage of split Census places was 4 of 75 or 5 percent. This computes to a *de minimis* difference of 4 percentage points between the two plans for CD6, not a 48-percentage point difference.

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[3] A Federal Communications Commission Report also confirms my finding that WWPX is in West Virginia, not Maryland: FCC, REPORT NO. 48672, BROADCAST ACTIONS, 02/17/2016, https://apps.fcc.gov/edocs_public/attachmatch/DOC-337708A2.txt.

[4] "MARYLAND CONGRESSIONAL DISTRICTS BY PLACE," 113th Congress, https://www2.census.gov/geo/relfiles/cdsld13/24/pl_cd_24.txt.

[5] "MARYLAND CONGRESSIONAL DISTRICTS BY PLACE," 108th Congress, https://www2.census.gov/geo/relfiles/cd108th/MD/plc_c8_24.txt.

II. Reply Report of Dr. McDonald

A. According to Dr. McDonald's Own Methodology Maryland's 2011 Congressional Redistricting Plan is Not a Partisan Gerrymander

In my opening report, I applied to Maryland's 2011 congressional redistricting plan the methodology that Dr. McDonald used in his Texas partisan gerrymandering case, for which he referenced my methodology in the *Veith* case. Dr. McDonald does not dispute the numerical findings of my Maryland analysis. Instead, he abandons his Texas methodology and relies on a single comparison of the votes won by Republicans in an average election (39.1 percent) and their expected percentage of seats under the 2011 congressional plan: "Therefore Republicans can expect to win one of eight congressional districts, or 12.5% of the seats, in a typical Maryland election. Since this is less than 39.1% by 26.6 percentage points, I conclude that Maryland's 2011 congressional redistricting plan is a partisan gerrymander."

This conclusion contradicts the most fundamental principle of redistricting analysis: that *any given percentage of votes in a redistricting plan translates into a higher percentage of seats*. Dr. McDonald recognizes this principle in his scholarship:

"A performance measure of an electoral system for legislative bodies is to compare the percentage of votes to seats won by political parties. Only by happenstance do these percentages equate; *it is more often the case, particularly among electoral systems that employ single member districts, that the party that wins the most votes receives an even greater share of seats* (Rae 1967; Lijphart 1999). A plotting of the percentage of seats awarded *for all observed or predicted shares* of votes forms a curve that provides additional information about the relationship between votes and seats in an electoral system (Kendall and Stuart 1950; Tufte 1973; Grofman 1983; King and Browning 1987)" (emphasis added).[6]

This premium of seats over votes in a fair redistricting plan applies powerfully in states like Maryland, where one party commands more than 60 percent of the votes. As indicated in Tables 17 and 18 in my opening report, in all states with a 60%+ partisan majority and 4 to 8 CDs, the majority party won a minimum of 75 percent of the seats, with an average of 88 percent for the post-2000 redistricting and 91 percent of the post 2010 redistricting.

Dr. McDonald also states in the same article that: "There are two characteristics generally associated with these curves. *Bias* is a seat share bonus enjoyed by a party, typically measured as a function of the percent of vote *needed to win fifty percent of the seats*. *Responsiveness* (sometimes called the "swing ratio") is how a change in percent votes are related to a change in seats awarded to parties." (emphasis added)

In his Texas report, for both congressional and state legislative plans, Dr. McDonald computes such a seats-to-votes ratio, up to 60 percent votes for the minority Democrats, about 16 percentage points higher than their 43.6 percent in a "typical" election. Dr. McDonald's

---

[6] Michael P. McDonald, "Seats to Votes Ratios in the United States, SSRN, https://www.google.com/#q=michael+p.+mcdonald+seats+to+votes+ratio.

seats/votes chart for the Texas 2011 congressional plan, replicated in the Appendix (Diagram1), demonstrates that Democrats would win only 32 percent of Texas seats with 51 percent of the vote. They would win more than 50 percent of seats only with 56 percent or more of the vote. For Maryland's 2011 plan, replicated in the Appendix as Chart 1, at 51 percent of the vote Republicans would win 63 percent of seats and at 54 percent would win 75 percent of seats. Analysis additionally shows that if Republicans won 43 percent of the vote, they would win 25 percent of seats. Similarly, if Democrats won 43 percent of the vote they would symmetrically win 25 percent of seats, winning only the two voting rights districts. Even at 46 percent of the vote, Democrats would still win only 25 percent of the districts. The curve for Maryland in Chart 1 also flattens at 54 percent Republican votes and 75 percent Republican seats, because of the two voting rights districts.[7]

B. Efficiency Analysis as Applied by Dr. McDonald's Demonstrates That Maryland's 2011 Congressional Redistricting Plan is Not a Partisan Gerrymander

My opening report did modify efficiency analysis by considering wasted votes in a winning district as the margin of victory. I considered this methodology most appropriate to a dominant-party state like Maryland where all losing votes in many districts would be counted as wasted votes. I should have explained this distinction in my opening report. However, accepting the original form of efficiency analysis as applied by Dr. McDonald, his own results demonstrate that Maryland's 2011 congressional plan is not a partisan gerrymander.

Dr. McDonald finds that Republicans had more wasted votes than Democrats, equal to an efficiency gap of 5.8 percent (McDonald Reply Report, p. 10). But he fails to apply this result to the threshold identified by Stephanopoulos and McGhee for identifying a gerrymandered congressional plan. In states like Maryland with a least 8 congressional seats the authors state: "we recommend setting the bar at *two seats* for congressional plans and 8 *percent* for state house plans."[8] However, Dr. McDonald's gap of 5.8 percent translates only into .46 congressional seats (8*5.8% = .46), far short of the threshold. Even the higher efficiency gap of 6.7 percent that Dr. McDonald computes through an alternative analysis, translates into only .54 congressional seats. Both of Dr. McDonald's efficiency gaps even fall short of the far more lenient threshold of an 8 percent gap for state house plans.

The analysis presented in the article by Stephanopoulos and McGhee (replicated in the Appendix) of 2012 results for states with at least 8 congressional districts, shows that Maryland has one of the lowest efficiency gaps, at just over 5 percent. The Maryland gap is well within their error margin, that is, it crosses the zero line into a gap that favors Republicans. It is equal to less than half a district, far short not only of their gerrymandering threshold, but also of 2012 absolute all-state average of 1.58 congressional seats (p. 872). The authors found that there were

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[7] In Texas, McDonald notes that for all 33 statewide elections that formed the basis of his votes to seats analysis, the Democrats never won a statewide majority of the two-party vote across congressional districts. In contrast, for the 7 elections included in my Maryland analysis, Republicans won 5179 percent of the two-party vote across congressional districts in the 2014 gubernatorial election as demonstrated in Table 1 of my opening report.

[8] Nicholas O. Stephanopoulos & Eric M. McGhee, "Partisan Gerrymandering and the Efficiency Gap," 82 University of Chicago Law Review 831 (2015), p. 837.

7 congressional plans for 2012 that exceeded their 2-seat threshold, all of them "pro-Republican" (pp. 876, 890).[9]

C. Dr. McDonald's Application of Voting Rights Analysis Remains Misguided

Dr. McDonald misinterprets my critique of his application of voting rights analysis as referring to the existence of bloc voting. He still never explains why an analysis applied to a protected group like minorities should apply to political partisans. My point about partisan voting and partisan identification did not relate to bloc voting, but rather to the point that party identification and voting lacks the stability of racial identification. Dr. McDonald criticizes my Frederick County example because the county was split in the 2011 congressional plan. However, when the two components of Frederick County in 2012 are combined, the results demonstrate that unlike 2008, when Republicans won the county by 7,992 votes, in 2012 Republicans and Democrats about equally divided the vote: 53,674 for Democrats and 53,915 for Republicans. Dr. McDonald does not defend his failure to apply what he has recognized as an essential component of voting rights analysis, the scrutiny of the totality of circumstances.

D. Dr. McDonald's Reply Report Does Not Respond Adequately to Alternative Explanations for Maryland's 2011 Redistricting Plan.

Dr. McDonald does not deny that CD8 was packed with Democrats under the prior 2001 plan and that the new plan resulted in a substantial unpacking of this district. He seems to state unpacking only occurs if the extracted voters result in victory in another CD. However, in unpacking a district decision-makers would not know in advance the results of subsequent elections, but could only make predictions. The unpacking of CD8 is an explanation independent of any intent to retaliate against voters in CD6. Dr. McDonald cannot be defending a standard for redistricting that would compel plan drawers to maintain a packed district, simply because unpacking might increase their prospects for victory in another district.

I additionally noted in my opening report that Maryland's decision-makers sought to realize Maryland's very substantive Democratic majority. At the time of the redistricting Maryland lagged well behind comparable one-party dominant states. The 2011 plan brought Maryland more in line with other comparable states. Dr. McDonald does dispute these findings.

Drawing on the report of Mr. Cooper I also noted if Maryland's decision-makers truly intended to retaliate against Republicans, they could have drawn a plan with a Democratic advantage in all 8 congressional districts (similar to Massachusetts, where Democrats consistently won all 9 CDs). Dr. McDonald responds with a quibble suggesting that there might be some duplication of votes in consolidated precincts in Montgomery County. In his slightly revised plan that zeros out population deviations, Mr. Cooper also adjusted for this minor issue. He found that "The corrections I made to account for the duplicate vote count in the 11 consolidated precincts have a very minor downward impact on the 2008 Democratic vote

[9] These presumptively gerrymandered plans are in Florida, Michigan, North Carolina, Ohio, Pennsylvania, Texas, and Virginia (p. 890).

percentages in CD 6 (-0.7%) and hypothetical Districts 2 (-0.2%) and District 8 (-.04%) of the Zero Deviation 8-0 Plan."[10]

I also noted in my report that the reconfiguration of CD6 did not provide a safe Democratic district, but rather a competitive district that favored Democrats. I provided a set of analyses showing that new CD6 fell within the competitive range of 45 to 55 percent presented in Dr. McDonald's scholarship, and that the assessment of D+2 by the Cook Political Report places it within the tighter 48 to 52 percent competitive range that Dr. McDonald presents.

Dr. McDonald responds by quoting the following: "a normalized presidential vote within two competitiveness ranges, 45-55 and 48-52 percent, are presented in figure 10-1…[t]he wider 45-55 range is presented since it is commonly used to describe competitive congressional elections; *however, my analysis of the relationship between competitive districts and competitive elections suggests that the tighter range is a more valid definition of a competitive district*" (emphasis added).[11] Although he might personally prefer the tighter range, he indicates that the 45 to 55 percent range is the one commonly used by scholars. Dr. McDonald does not consider that analyses of CD6 prior to the 2012 general election included it as one of the nation's few competitive congressional districts. The 48 to 52 range, Dr. McDonald notes, is also normalized to the presidential vote which was 53 percent Democratic in 2008, the last presidential election before the 2011 redistricting. Thus, a 53 percent Democratic district would be normalized at 50 percent.

Dr. McDonald claims that since the publication of his 2006 book chapter, he no longer uses normalized votes to judge district competitiveness (McDonald Reply Report, p. 14). However, in that scholarship, notably an article just published on April 20, 2017 he now explicitly embraces the 45 percent to 55 percent competitiveness range. He even cites his earlier work from 2006 in support of that range: "We use a simple statistic to score competitive districts: the number of districts with a two-party 2008 presidential vote *within a .45 to .55 range*. This range is arbitrary but has foundation in prior research (McDonald, 2006b; Swain, Borrelli, & Reed, 1998)." (emphasis added)[12]

Real-world congressional elections demonstrate the fallacy of relying on a tight 48 to 52 percent criteria for CDs. In 2010, for example, Republicans won 52 congressional districts in which Democrats had prevailed in the previous 2008 contests by more than 52 percent. These results further demonstrate the malleability of identifying the partisanship of congressional districts.[13]

---

[10] Cooper Supplemental Declaration, p. 3.

[11] Michael P. McDonald. 2006. "Redistricting and Competitive Districts" in *The Marketplace of Democracy: Electoral Competition and American Politics*, Michael P. McDonald and John Samples, eds. Washington, DC: Brookings Press, p. 224.

[12] Micah Altman and Michael P. McDonald, "Redistricting by Formula: An Ohio Reform Experiment," *American Politics Research* (2017), p. 10.

[13] AR1, 2; AZ1, 5; CO3, FL2, 22, 24; GA8; IL8, 11, 14, 17; IN8, 9; KS3; LA3; MN8, MS1, 4; MO4; NV3; NH1, 2; NJ3; NM2; NY13, 19, 20, 25; NC2; ND at-large; OH1, 6, 16, 18; PA7, 8, 10; SC5; SD at-large; TN4, 6, 8; TX17, 27; VA2, 9; WA3; WV1; WI7, 8.

E. Dr. McDonald Rejects Communities of Interest as a Means for Analyzing Redistricting Plans

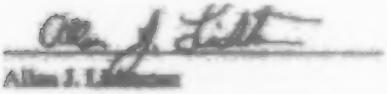
Although the claims of both Dr. Morrison and Dr. McDonald pivot on the concept of communities of interest, I noted in my opening report that Dr. McDonald's scholarship rejects the utility of this concept as a check on partisan gerrymandering. In his April 2017 article, Dr. McDonald rejects this concept even more emphatically than before:

> Criteria focusing on "communities of interest" have similarly been insufficient to constrain strongly political manipulation. Although many states have general requirements to respect communities of interest (National Conference of State Legislatures, 2009), and, in theory, measures applied to communities of interest could incorporate general representational criteria, this has not happened in practice within the United States. In practice, the communities of interest criterion has been either ignored or limited to protecting against districts that would divide concentrated homogeneous ethnic or racial groups. While this can indirectly constrain political goals, it may constrain one party substantially more than another (Altman & McDonald, 2014) and generally leaves ample room for political manipulation. Indeed, when communities of interest lack definitional foundation any boundary line can be argued to respect post hoc communities.
>
> If neither administrative criteria nor communities of interest are sufficient to constrain political goals, then a solution may be to explicitly incorporate political goals into the redistricting criteria.[14]

III. The Absence of Methodology for Analyzing Intent in Both Reports of Plaintiffs' Experts

Neither Dr. McDonald nor Dr. Morrison apply the Arlington Heights framework of analyzing intent, which is consistent with corresponding historical methodology. Dr. Morrison does not attempt to defend this lack of methodological standards for intent. Dr. McDonald attempts to excuse this flaw by saying, "Plaintiffs to this action did not ask me to examine these *Arlington Heights* factors." (McDonald Reply Report, p .16) However, instructions from attorneys do not excuse the failure of social science expert to rely on the appropriate methodology for assessing intent.

June 2, 2017



Allan J. Lichtman

[14] Altman and McDonald, "Redistricting by Formula," p. 6.

APPENDIX

Adopted Congressional Districts

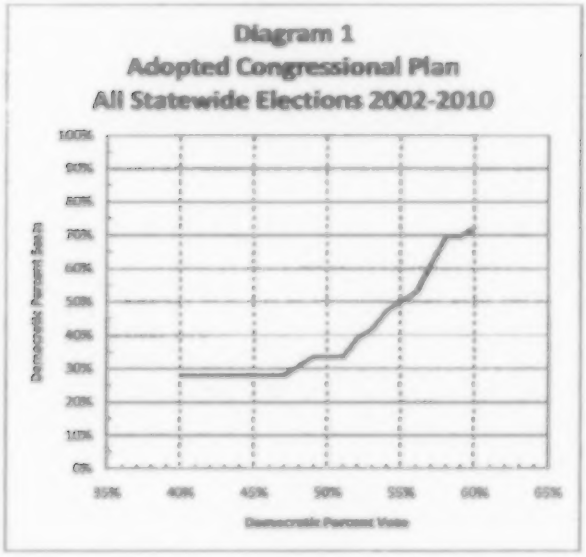
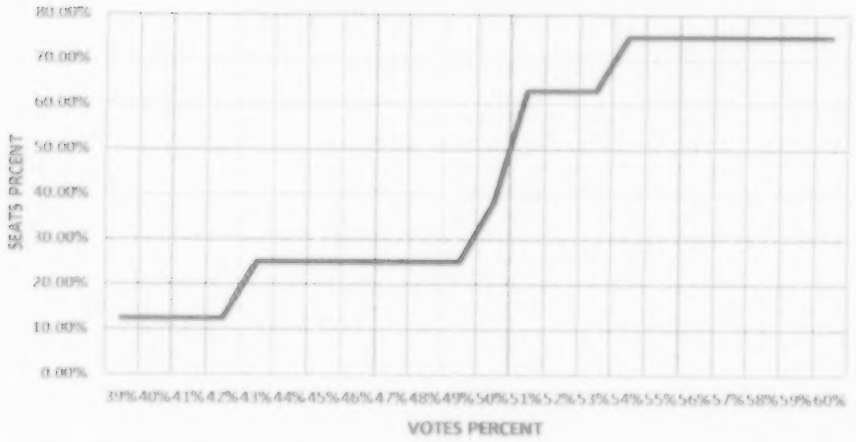
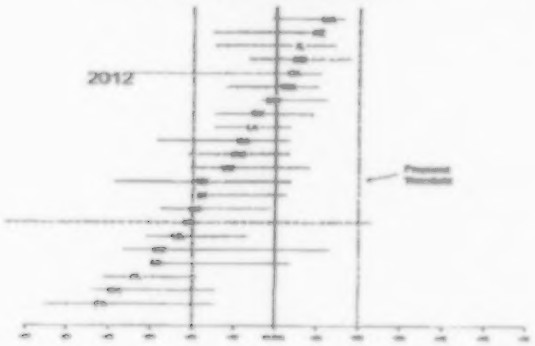


Chart 1
Adopted MD 2011 Congressional Plan
All Statewide Elections, 2012-2016



2016] *Partisan Gerrymandering and the Efficiency Gap* 879

FIGURE 7. EFFICIENCY GAPS FOR CONGRESSIONAL PLANS BY STATE, 1972–2012[188]



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NR: not reported

Return to Election Results for State Question 06

Question 06

Civil Marriage Protection Act

Referendum Petition (Ch. 2 of the 2012 Legislative Session)

	Yes	No
Allegany County	9,985	16,927
Anne Arundel County ✔	130,053	130,883
Baltimore City ✔	136,097	109,294
Baltimore County ✔	194,100	181,182
Calvert County	20,206	23,944
Caroline County	4,786	8,139
Carroll County	37,891	48,253
Cecil County	18,379	32,883
Charles County	39,334	38,792
Dorchester County	8,948	8,943
Frederick County ✔	58,348	58,602
Garrett County	3,468	9,212
Harford County	55,057	66,785

Prevent

Howard County ✔	88,799	91,139
Kent County	4,885	4,909
Montgomery County ✔	286,635	193,488
Prince George's County	183,257	188,298
Queen Anne's County	10,788	13,609
St. Mary's County	30,909	25,671
Somerset County	3,467	6,244
Talbot County	8,567	10,280
Washington County	23,585	37,248
Wicomico County	18,107	24,485
Worcester County	11,088	15,212
Totals	1,373,504 (52.4%)	1,248,046 (47.6%)

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NR: not reported

Return to Election Results for State Question 07

Question 07 ✔

Gaming Expansion

Gaming Expansion Referendum (Ch. 1 of the Second 2012 Special Session)

	Yes	No
Allegany County ✔	17,436	12,012
Anne Arundel County	117,127	139,484
Baltimore City ✔	128,870	118,478
Baltimore County	182,882	194,825
Calvert County ✔	25,398	19,585
Caroline County	6,012	7,127
Carroll County	38,936	47,921
Cecil County	17,815	23,990
Charles County ✔	40,887	39,580
Dorchester County	7,436	7,523
Frederick County ✔	59,998	60,195
Garrett County	5,357	7,486
Harford County	58,557	66,110

Prevent

Howard County	71,989	79,345
Kent County	4,068	5,810
Montgomery County ✔	340,885	280,579
Prince George's County ✔	222,275	152,000
Queen Anne's County	11,586	13,031
St. Mary's County ✔	27,315	19,898
Somerset County ✔	5,925	4,044
Talbot County	8,372	11,779
Washington County ✔	34,869	39,874
Wicomico County ✔	21,826	19,991
Worcester County ✔	14,474	12,414
Totals	1,373,888 (51.9%)	1,272,355 (48.1%)

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Return to Election Results for Representative in Congress Congressional District 6

Representative in Congress

Congressional District 6

	Jennifer P. Dougherty Democratic	Roscoe Bartlett Republican ✔	Gary W. Hoover, Sr. Libertarian	Other Write-Ins WIA
Allegany	10,478	17,589	610	14
Baltimore	6,139	11,110	566	17
Carroll	26,182	61,696	2,484	68
Frederick	47,797	85,756	3,837	142
Garrett	3,960	8,445	264	2
Harford	6,808	10,196	665	23
Montgomery	4,884	5,834	351	11
Washington	24,377	32,278	2,523	97
Totals	138,387 (39.8%)	160,839 (57.9%)	11,060 (3.3%)	342 (.1%)

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Representative in Congress

Congressional District 06

Democratic (Vote for One) View the breakdown of these results

Name	Party	Early Voting	Election Day	Absentee / Provisional	Total Votes	Percentage
Charles Bailey	Democratic	142	1,304	138	1,672	4.2%
John Delaney ✓	Democratic	2,080	17,521	833	20,414	54.2%
Rob Garagiola	Democratic	1,417	9,569	914	10,591	28.1%
Ron Little	Democratic	117	957	77	1,151	3.0%
Milad Pooran	Democratic	488	3,049	133	3,560	9.5%

Republican (Vote for One) View the breakdown of these results

Name	Party	Early Voting	Election Day	Absentee / Provisional	Total Votes	Percentage
Kathy Afzali	Republican	294	3,575	146	4,115	10.2%
Roscoe G. Bartlett ✓	Republican	1,121	15,675	804	17,600	43.6%
David R. Brinkley	Republican	702	6,930	355	7,987	19.8%
Robert Cobberly	Republican	58	686	46	870	2.4%
Robin Ficker	Republican	237	2,462	165	2,864	7.1%
Peter Jarman	Republican	51	848	34	933	2.3%

Present	Joseph T. Krysztofiński	Republican	268	2,661	72	3,073	7.6%
	Brandon Owren Rippeon	Republican	360	2,377	106	2,843	7.5%

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Representative in Congress

Congressional District 6

	John Delaney Democratic	Roscoe G. Bartlett Republican	Nicholaus Mueller Libertarian	Other Write-Ins NIA
	✔			
Allegany	11,998	16,730	1,048	18
Frederick	51,079	28,148	1,901	79
Garrett	3,884	6,445	387	4
Montgomery	105,831	44,425	3,568	259
Washington	28,381	28,565	2,774	41
Totals	181,821 (59.8%)	117,313 (37.9%)	9,918 (3.2%)	349 (.1%)

Maryland State Board of Elections

Official 2014 Gubernatorial General Election results for Representative in Congress

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Representative in Congress

Congressional District 6

(Vote for One) County Breakdown

This table may scroll left to right depending on the screen size of your device.

Name	Party	Early Voting	Election Day	Absentee / Provisional	Total	Percentage
John K. Delaney ✔	Democratic	12,996	76,322	5,386	94,704	49.7%
Dan Bongino	Republican	9,306	77,846	4,778	91,930	48.2%
George Gluck	Green	375	3,128	259	3,762	2.0%
Other Write-Ins	N/A	17	114	9	140	0.1%

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NR: not reported

Representative in Congress

Congressional District 1

(Vote for One) Details

Name	Party	Early Voting	Election Day	Absentee / Provisional	Total	Percentage
Frank M. Kratovil, Jr.	Democratic	18,200	93,673	8,527	120,400	42.0%
Andy Harris ✓	Republican	21,422	125,773	7,923	155,118	54.1%
Richard James Davis	Libertarian	1,341	8,941	584	10,870	3.8%
Michael Kennedy (Write In)	Unaffiliated	0	18	0	18	0.0%
Jack N. Villers (Write In)	Unaffiliated	58	119	3	180	0.1%
Other Write-Ins	N/A	34	170	38	242	0.1%

Congressional District 2

(Vote for One) Details

Prevent

Name	Party	Early Voting	Election Day	Absentee / Provisional	Total	Percentage
C. A. Dutch Ruppersberger ✔	Democratic	15,814	111,266	7,023	134,103	64.2%
Marcelo Cardarelli	Republican	6,007	60,375	3,141	69,523	33.3%
Lorenzo Gardenega	Libertarian	391	4,453	246	5,090	2.4%
Other Write-Ins	N/A	18	131	9	158	0.1%

Congressional District 3

(Vote for One) Details

Name	Party	Early Voting	Election Day	Absentee / Provisional	Total	Percentage
John Sarbanes ✔	Democratic	17,544	119,589	10,305	147,448	61.1%
Jim Wilhelm	Republican	8,476	73,477	4,994	86,947	36.0%
Jerry McGinley	Libertarian	401	4,509	302	5,212	2.2%
Alain Lareau	Constitution	148	1,391	87	1,634	0.7%
Other Write-Ins	N/A	24	152	12	188	0.1%

Congressional District 4

(Vote for One) Details

Name	Party	Early Voting	Election Day	Absentee / Provisional	Total	Percentage
Donna Edwards ✔	Democratic	27,325	122,356	10,547	160,228	83.4%
Robert Broadus	Republican	3,573	25,787	2,127	31,487	16.4%
Other Write-Ins	N/A	54	243	28	325	0.2%

Congressional District 5

(Vote for One) Details

Name	Party	Early Voting	Election Day	Absentee / Provisional	Total	Percentage
Steny H. Hoyer ✔	Democratic	21,333	124,078	9,699	155,110	64.3%
Charles Lollar	Republican	9,801	69,758	4,216	83,575	34.6%
H. Gavin Shickle	Libertarian	281	2,132	165	2,578	1.1%
Other Write-Ins	N/A	17	94	9	120	0.0%

Congressional District 6

(Vote for One) Details

Name	Party	Early Voting	Election Day	Absentee / Provisional	Total	Percentage
Andrew Duck	Democratic	6,754	69,073	4,848	80,455	33.2%

Roscoe G. Bartlett ✔	Republican	9,191	135,405	6,256	148,852	61.4%
Dan Massey	Libertarian	412	8,118	288	8,818	2.8%
Michael Reed	Constitution	374	5,278	255	5,907	2.4%
Other Write-Ins	N/A	12	167	12	191	0.1%

Congressional District 7

(Vote for One) Details

Name	Party	Early Voting	Election Day	Absentee / Provisional	Total	Percentage
Elijah Cummings ✔	Democratic	28,796	119,867	10,036	152,899	79.2%
Frank Mirabile, Jr.	Republican	9,191	57,705	2,459	49,373	32.6%
Scott Spencer	Libertarian	388	3,160	280	2,914	1.9%
Ray Ely (Write In)	Republican	6	14	0	20	0.0%
Fred Donald Dickson, Jr. (Write In)	Unaffiliated	4	61	0	65	0.0%
Other Write-Ins	N/A	24	100	11	135	0.1%

Congressional District 8

(Vote for One) Details

Name	Party	Early Voting	Election Day	Absentee / Provisional	Total	Percentage
Chris Van Hollen ✔	Democratic	12,939	126,102	10,581	100,919	73.5%
Michael Lee Phillips	Republican	3,936	44,273	4,859	52,421	35.6%
Mark Grannis	Libertarian	160	2,399	253	2,713	1.3%
Fred Needham	Constitution	48	594	54	699	0.3%
Other Write-Ins	N/A	14	188	22	224	0.1%

MARYLAND CONGRESSIONAL DISTRICTS BY PLACE

Place	County/Independent City	Congressional District
Aberdeen Proving Ground CDP	Harford	2
Aberdeen city	Harford	1,2
Accident town	Garrett	6
Accokeek CDP	Prince George's	5
Adamstown CDP	Frederick	6
Adelphi CDP	Prince George's	4,5
Algonquin CDP	Dorchester	1
Allen CDP	Wicomico	1
Andrews AFB CDP	Prince George's	4,5
Annapolis Neck CDP	Anne Arundel	3,4
Annapolis city	Anne Arundel	3
Antietam CDP	Washington	6
Aquasco CDP	Prince George's	5
Arbutus CDP	Baltimore	2,7
Arden on the Severn CDP	Anne Arundel	4
Arnold CDP	Anne Arundel	4
Ashton-Sandy Spring CDP	Montgomery	3
Aspen Hill CDP	Montgomery	3,6,8
Avalon CDP	Prince George's	5
Avilton CDP	Washington	6
Bakersville CDP	Washington	6
Ballenger Creek CDP	Frederick	6,8
Baltimore Highlands CDP	Baltimore	2
Baltimore city	Baltimore	2,3,7
Barclay town	Queen Anne's	1
Barnesville town	Montgomery	6
Barrelville CDP	Allegany	6
Barton town	Allegany	6
Bartonsville CDP	Frederick	8
Beaver Creek CDP	Washington	6
Bel Air CDP	Allegany	6
Bel Air North CDP	Harford	1
Bel Air South CDP	Harford	1,2
Bel Air town	Harford	1
Beltsville CDP	Prince George's	4,5
Benedict CDP	Charles	5
Bennville CDP	Charles	5
Berlin town	Worcester	1
Berwyn Heights town	Prince George's	5
Bethesda CDP	Montgomery	8
Betterton town	Kent	1
Bier CDP	Allegany	6
Big Pool CDP	Washington	6
Big Spring CDP	Washington	6
Bishopville CDP	Worcester	1
Bivalve CDP	Wicomico	1
Bladensburg town	Prince George's	4
Bloomington CDP	Garrett	6
Boonsboro town	Washington	6
Bowie city	Prince George's	4,5
Bowleys Quarters CDP	Baltimore	2
Bowling Green CDP	Allegany	6
Bowmans Addition CDP	Allegany	6
Braddock Heights CDP	Frederick	8
Brandywine CDP	Prince George's	5
Breathedsville CDP	Washington	6
Bruntwood town	Prince George's	4
Bruch Hall CDP	Prince George's	4,5
Brookeville town	Montgomery	3
Brooklyn Park CDP	Anne Arundel	2
Brookmont CDP	Montgomery	8
Brookview town	Dorchester	1
Broomes Island CDP	Calvert	5
Brownsville CDP	Washington	6
Brunswick city	Frederick	6
Bryans Road CDP	Charles	5
Bryantown CDP	Charles	5
Buckeystown CDP	Frederick	6
Burkittsville town	Frederick	8
Burtonsville CDP	Montgomery	3
Butlertown CDP	Kent	1
Cabin John CDP	Montgomery	8
California CDP	St. Mary's	5
Calvert Beach CDP	Calvert	5
Calverton CDP	Montgomery	3
	Prince George's	4
Cambridge city	Dorchester	1
Camp Springs CDP	Prince George's	4,5
Cape St. Claire CDP	Anne Arundel	3,4
Capitol Heights town	Prince George's	4

Carlos CDP	Allegany	6
Carney CDP	Baltimore	1, 3
Catonsville CDP	Baltimore	7
Cavetown CDP	Washington	6
Clearfork CDP	Washington	6
Coulton town	Cecil	1
Cedarville CDP	Prince George's	5
Centreville town	Queen Anne's	1
Chance CDP	Somerset	1
Charlestown town	Cecil	1
Charlotte Hall CDP	St. Mary's	5
Charlton CDP	Washington	6
Chesapeake Beach town	Calvert	5
Chesapeake City town	Cecil	1
Chesapeake Ranch Estates CDP	Calvert	5
Chester CDP	Queen Anne's	1
Chestertown town	Kent	1
Cheverly town	Prince George's	4
Chevy Chase CDP	Montgomery	8
Chevy Chase Section Five village	Montgomery	8
Chevy Chase Section Three village	Montgomery	8
Chevy Chase View town	Montgomery	8
Chevy Chase Village town	Montgomery	8
Chevy Chase town	Montgomery	8
Chewsville CDP	Washington	6
Chillum CDP	Prince George's	4
Choptank CDP	Caroline	1
Church Creek town	Dorchester	1
Church Hill town	Queen Anne's	1
Clarksburg CDP	Montgomery	8
Claysville CDP	Allegany	6
Clear Spring town	Washington	6
Clinton CDP	Prince George's	5
Cloverly CDP	Montgomery	3, 8
Cobb Island CDP	Charles	5
Cockeysville CDP	Baltimore	1, 2, 7
Colesville CDP	Montgomery	3, 8
College Park city	Prince George's	5
Colmar Manor town	Prince George's	4
Columbia CDP	Howard	3, 7
Coral Hills CDP	Prince George's	4
Cordova CDP	Talbot	1
Corriganville CDP	Allegany	6
Cottage City town	Prince George's	4
Crellin CDP	Garrett	6
Crisfield city	Somerset	1
Crofton CDP	Anne Arundel	4, 5
Croom CDP	Prince George's	5
Crownsville CDP	Anne Arundel	4
Cumberland city	Allegany	6
Damascus CDP	Montgomery	6, 8
Dames Quarter CDP	Somerset	1
Danville CDP	Allegany	6
Dargan CDP	Washington	6
Darlington CDP	Harford	7
Darnestown CDP	Montgomery	6
Dawson CDP	Allegany	6
Deal Island CDP	Somerset	1
Deale CDP	Anne Arundel	5
Deer Park town	Garrett	6
Delmar town	Wicomico	1
Denton town	Caroline	1
Derwood CDP	Montgomery	6
Detmold CDP	Allegany	6
District Heights city	Prince George's	4
Downsville CDP	Washington	6
Drum Point CDP	Calvert	5
Dundalk CDP	Baltimore	2
Dunkirk CDP	Calvert	5
Eagle Harbor town	Prince George's	5
Eakles Mill CDP	Washington	6
East New Market town	Dorchester	1
East Riverdale CDP	Prince George's	4, 5
Easton town	Talbot	1
Eckhart Mines CDP	Allegany	6
Eden CDP	Somerset	1
Edmonville CDP	Kent	1
Edgemere CDP	Baltimore	2
Edgemont CDP	Washington	6
Edgewater CDP	Anne Arundel	4, 5
Edgewood CDP	Harford	1, 2
Edmonston town	Prince George's	4
Eldersburg CDP	Carroll	8
Eldorado town	Dorchester	1

Elkridge CDP	Howard	2, 5, 7
Elkton town	Cecil	1
Ellerslie CDP	Allegany	6
Ellicott City CDP	Howard	7
Elliott CDP	Dorchester	1
Emmitsburg town	Frederick	8
Ernstville CDP	Washington	6
Essex CDP	Baltimore	2
Fairland CDP	Montgomery	3
Fairlee CDP	Kent	1
Fairmount CDP	Somerset	1
Fairmount Heights town	Prince George's	4
Fairplay CDP	Washington	6
Fairview CDP	Washington	6
Fairwood CDP	Prince George's	4, 5
Fallston CDP	Harford	1
Federalsburg town	Caroline	1
Ferndale CDP	Anne Arundel	2, 3
Finzel CDP	Garrett	6
Fishing Creek CDP	Dorchester	1
Flintstone CDP	Allegany	6
Forest Glen CDP	Montgomery	8
Forest Heights town	Prince George's	4
Forestville CDP	Prince George's	4
Fort Meade CDP	Anne Arundel	2, 3
Fort Ritchie CDP	Washington	6
Fort Washington CDP	Prince George's	4, 5
Fountainhead-Orchard Hills CDP	Washington	6
Four Corners CDP	Montgomery	8
Franklin CDP	Allegany	6
Frederick city	Frederick	2, 8
Franchtown-Humbly CDP	Somerset	1
Friendly CDP	Prince George's	5
Friendship CDP	Anne Arundel	5
Friendship Heights Village CDP	Montgomery	8
Friendsville town	Garrett	6
Frostburg city	Allegany	6
Fruitland city	Wicomico	1
Fulton CDP	Howard	3
Funkstown town	Washington	6
Gaithersburg city	Montgomery	8
Galena town	Kent	1
Galestown town	Dorchester	1
Galesville CDP	Anne Arundel	5
Gambrills CDP	Anne Arundel	4
Gapland CDP	Washington	6
Garrett Park town	Montgomery	8
Garretts Mill CDP	Washington	6
Garrison CDP	Baltimore	3
Georgetown CDP	Kent	1
Germantown CDP	Montgomery	8
Gilmore CDP	Allegany	6
Girdletree CDP	Worcester	1
Glassmanor CDP	Prince George's	4
Glen Burnie CDP	Anne Arundel	2, 4
Glen Echo town	Montgomery	8
Glenarden city	Prince George's	4
Glenmont CDP	Montgomery	8
Glenn Dale CDP	Prince George's	4, 5
Golden Beach CDP	St. Mary's	5
Goldsboro town	Caroline	1
Gorman CDP	Garrett	6
Grahamtown CDP	Allegany	6
Grantsville town	Garrett	6
Grasonville CDP	Queen Anne's	1
Greenbelt city	Prince George's	5
Greensboro town	Caroline	1
Greenspring CDP	Washington	6
Hagerstown city	Washington	6
Halfway CDP	Washington	6
Hampstead town	Carroll	1
Hampton CDP	Baltimore	1, 2
Hancock town	Washington	6
Havre de Grace city	Harford	2
Hebron town	Wicomico	1
Henderson town	Caroline	1
Herald Harbor CDP	Anne Arundel	4
Highfield-Cascade CDP	Washington	6
Highland Beach town	Anne Arundel	3
Highland CDP	Howard	3, 7
Hillandale CDP	Montgomery	3
	Prince George's	4
Hillcrest Heights CDP	Prince George's	4
Hillsboro town	Caroline	1
Hughesville CDP	Charles	5

Huntingtown CDP	Calvert	5
Hurlock town	Dorchester	1
Hutton CDP	Garrett	6
Hyattsville city	Prince George's	4,5
Ilchester CDP	Howard	2,3,7
Indian Head town	Charles	5
Indian Springs CDP	Washington	6
Jarrettsville CDP	Harford	1
Jefferson CDP	Frederick	6,8
Jennings CDP	Garrett	6
Jessup CDP	Anne Arundel	2
	Howard	2
Jesterville CDP	Wicomico	1
Joppatowne CDP	Harford	1,2
Jug Town CDP	Washington	6
Keedysville town	Washington	6
Kemp Mill CDP	Montgomery	3
Kempe Mill CDP	Washington	6
Kennedyville CDP	Kent	1
Kensington town	Montgomery	8
Kent Narrows CDP	Queen Anne's	1
Kettering CDP	Prince George's	4
Kingstown CDP	Queen Anne's	1
Kingsville CDP	Baltimore	1
Kitzmiller town	Garrett	6
Klondike CDP	Allegany	6
Kontarra CDP	Prince George's	4,5
La Plata town	Charles	5
La Vale CDP	Allegany	6
Lake Arbor CDP	Prince George's	4
Lake Shore CDP	Anne Arundel	3,4
Landover CDP	Prince George's	4
Landover Hills town	Prince George's	4
Langley Park CDP	Prince George's	4
Lanham CDP	Prince George's	4,5
Lansdowne CDP	Baltimore	3
Largo CDP	Prince George's	4
Laurel city	Prince George's	4
Layhill CDP	Montgomery	8
Laytonsville town	Montgomery	6,8
Leisure World CDP	Montgomery	8
Leitersburg CDP	Washington	6
Leonardtown town	St. Mary's	5
Lexington Park CDP	St. Mary's	5
Libertytown CDP	Frederick	8
Linganore CDP	Frederick	6,8
Linthicum CDP	Anne Arundel	2,3
Little Orleans CDP	Allegany	6
Loch Lynn Heights town	Garrett	6
Lochearn CDP	Baltimore	2,7
Lonaconing town	Allegany	6
Long Beach CDP	Calvert	5
Luke town	Allegany	6
Lusby CDP	Calvert	5
Lutherville CDP	Baltimore	2
Madison CDP	Dorchester	1
Manchester town	Carroll	1
Mapleville CDP	Washington	6
Mardela Springs town	Wicomico	1
Marlboro Meadows CDP	Prince George's	5
Marlboro Village CDP	Prince George's	4,5
Marlow Heights CDP	Prince George's	4
Marlton CDP	Prince George's	5
Martin's Additions village	Montgomery	8
Marydel town	Caroline	1
Maryland City CDP	Anne Arundel	2,4
Maugansville CDP	Washington	6
Mayo CDP	Anne Arundel	5
Mays Chapel CDP	Baltimore	2,3,7
McCoole CDP	Allegany	6
Mechanicsville CDP	St. Mary's	5
Melwood CDP	Prince George's	5
Mercersville CDP	Washington	6
Middle River CDP	Baltimore	2
Middleburg CDP	Washington	6
Middletown town	Frederick	8
Midland town	Allegany	6
Midlothian CDP	Allegany	6
Milford Mill CDP	Baltimore	2,7
Millington town	Kent	1
	Queen Anne's	1
Mitchellville CDP	Prince George's	4
Monrovia CDP	Frederick	8
Montgomery Village CDP	Montgomery	6
Morningside town	Prince George's	4

Monrovia CDP	Allegany	6
Mount Aetna CDP	Washington	6
Mount Airy town	Carroll	6
	Frederick	6
Mount Briar CDP	Washington	6
Mount Lena CDP	Washington	6
Mount Rainier city	Prince George's	4
Mount Savage CDP	Allegany	6
Mount Vernon CDP	Somerset	1
Mountain Lake Park town	Garrett	6
Myersville town	Frederick	6
Nanticoke Acres CDP	Wicomico	1
Nanticoke CDP	Wicomico	1
National CDP	Allegany	6
National Harbor CDP	Prince George's	4
Naval Academy CDP	Anne Arundel	3
New Carrollton city	Prince George's	4,1
New Market town	Frederick	8
New Windsor town	Carroll	8
Newark CDP	Worcester	1
Nikep CDP	Allegany	6
North Beach town	Calvert	5
North Bethesda CDP	Montgomery	6
North Brentwood town	Prince George's	4
North Chevy Chase village	Montgomery	8
North East town	Cecil	1
North Kensington CDP	Montgomery	6
North Laurel CDP	Howard	2
North Potomac CDP	Montgomery	6,0
Oakland town	Garrett	6
Ocean CDP	Allegany	6
Ocean City town	Worcester	1
Ocean Pines CDP	Worcester	1
Odenton CDP	Anne Arundel	2,4
Oldtown CDP	Allegany	6
Olney CDP	Montgomery	3,8
Overlea CDP	Baltimore	2,3
Owings CDP	Calvert	5
Owings Mills CDP	Baltimore	2,3
Oxford town	Talbot	1
Oxon Hill CDP	Prince George's	4
Paramount-Long Meadow CDP	Washington	6
Parkville CDP	Baltimore	2,3
Parole CDP	Anne Arundel	3,4
Parsonsburg CDP	Wicomico	1
Pasadena CDP	Anne Arundel	3,4
Pecktonville CDP	Washington	6
Peppermill Village CDP	Prince George's	4
Perry Hall CDP	Baltimore	1,3
Perryman CDP	Harford	2
Perryville town	Cecil	1
Pikesville CDP	Baltimore	2,3
Pinesburg CDP	Washington	6
Piney Point CDP	St. Mary's	8
Pittsville town	Wicomico	1
Pleasant Grove CDP	Allegany	6
Pleasant Hills CDP	Harford	1
Pocomoke City city	Worcester	1
Point of Rocks CDP	Frederick	6
Pomfret CDP	Charles	5
Pondsville CDP	Washington	6
Poolesville town	Montgomery	6
Port Deposit town	Cecil	1
Port Tobacco Village town	Charles	5
Potomac CDP	Montgomery	6,8
Potomac Heights CDP	Charles	5
Potomac Park CDP	Allegany	6
Powellville CDP	Wicomico	1
Preston town	Caroline	1
Prince Frederick CDP	Calvert	5
Princess Anne town	Somerset	1
Pylesville CDP	Harford	1
Quantico CDP	Wicomico	1
Queen Anne CDP	Prince George's	5
Queen Anne town	Queen Anne's	1
	Talbot	1
Queenland CDP	Prince George's	5
Queenstown town	Queen Anne's	1
Randallstown CDP	Baltimore	2,3,1
Rawlings CDP	Allegany	6
Redland CDP	Montgomery	6,8
Reid CDP	Washington	6
Reisterstown CDP	Baltimore	2,3
Ridgely town	Caroline	1
Ringgold CDP	Washington	6

Rising Sun town	Cecil	1
Riva CDP	Anne Arundel	4
Riverdale Park town	Prince George's	4,5
Riverside CDP	Harford	2
Riviera Beach CDP	Anne Arundel	3,4
Robinwood CDP	Washington	6
Rock Hall town	Kent	1
Rock Point CDP	Charles	5
Rockville city	Montgomery	5,6
Rohrersville CDP	Washington	6
Rosaryville CDP	Prince George's	5
Rosedale CDP	Baltimore	2,3
Rosemont village	Frederick	6
Rossville CDP	Baltimore	2,3
Sabillasville CDP	Frederick	6
Salisbury city	Wicomico	1
San Mar CDP	Washington	6
Sandy Hook CDP	Washington	6
Savage CDP	Howard	2
Scaggsville CDP	Howard	2,5
Seabrook CDP	Prince George's	4,5
Seat Pleasant city	Prince George's	4
Secretary town	Dorchester	1
Severn CDP	Anne Arundel	2-4
Severna Park CDP	Anne Arundel	4
Shady Side CDP	Anne Arundel	5
Shaft CDP	Allegany	6
Sharpsburg town	Washington	6
Sharptown town	Wicomico	1
Silver Hill CDP	Prince George's	4
Silver Spring CDP	Montgomery	3,5
Smith Island CDP	Somerset	1
Smithsburg town	Washington	6
Snow Hill town	Worcester	1
Solomons CDP	Calvert	5
Somerset town	Montgomery	5
South Kensington CDP	Montgomery	5
South Laurel CDP	Prince George's	4,5
Spencerville CDP	Montgomery	3
Spring Gap CDP	Allegany	6
Spring Ridge CDP	Frederick	6
Springdale CDP	Prince George's	4
St. George Island CDP	St. Mary's	5
St. James CDP	Washington	6
St. Leonard CDP	Calvert	5
St. Michaels town	Talbot	1
Stevensville CDP	Queen Anne's	1
Stockton CDP	Worcester	1
Sudlersville town	Queen Anne's	1
Suitland CDP	Prince George's	4
Summerfield CDP	Prince George's	4
Swanton CDP	Garrett	6
Sykesville town	Carroll	5
Takoma Park city	Montgomery	5
Tall Timbers CDP	St. Mary's	5
Taneytown city	Carroll	1
Taylors Island CDP	Dorchester	1
Temple Hills CDP	Prince George's	4
Templeville town	Caroline	1
	Queen Anne's	1
Thurmont town	Frederick	6
Tilghman Island CDP	Talbot	1
Tilghmanton CDP	Washington	6
Timonium CDP	Baltimore	2,7
Tolchester CDP	Kent	1
Towson CDP	Baltimore	2,3
Trappe town	Talbot	1
Travilah CDP	Montgomery	6,8
Trego-Rohrersville Station CDP	Washington	6
Tyaskin CDP	Wicomico	1
Union Bridge town	Carroll	5
University Park town	Prince George's	5
Upper Marlboro town	Prince George's	5
Urbana CDP	Frederick	6
Vale Summit CDP	Allegany	6
Vienna town	Dorchester	1
Waldorf CDP	Charles	5
Walker Mill CDP	Prince George's	4
Walkersville town	Frederick	6
Washington Grove town	Montgomery	6
Waterview CDP	Wicomico	1
West Denton CDP	Caroline	1
West Laurel CDP	Prince George's	4
West Ocean City CDP	Worcester	1
West Pocomoke CDP	Somerset	1

Westernport town	Allegany	6
Westminster city	Carroll	8
Westphalia CDP	Prince George's	4,5
Whaleyville CDP	Worcester	1
Wheaton CDP	Montgomery	6,8
White Marsh CDP	Baltimore	1-3
White Oak CDP	Montgomery	3,8
Whitehaven CDP	Wicomico	1
Willards town	Wicomico	1
Williamsport town	Washington	6
Williston CDP	Caroline	1
Wilson-Conococheague CDP	Washington	6
Woodland CDP	Allegany	6
Woodlawn CDP	Baltimore	7
	Prince George's	4,5
Woodmore CDP	Prince George's	4,5
Woodsboro town	Frederick	8
Worton CDP	Kent	1
Yarrowsburg CDP	Washington	6
Zihlman CDP	Allegany	6

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

O. JOHN BENISEK, *et al.*,		
Plaintiffs,		
v.		Case No. 13-cv-3233
LINDA H. LAMONE., *et al.*,		
Defendants.		

DECLARATION OF SHELLY APRILL

I, Shelly Aprill, under penalty of perjury, declare and state:

1. I, Shelly Aprill, am over the age of eighteen and am competent to testify to the matters stated below.

2. I am a planner in the Planning Data Analysis Unit of the Maryland Department of Planning. I have held this position for 8 years. As a planner, my background includes a Master of Urban and Regional Planning from Virginia Commonwealth University. Upon completion of my Master's degree, I was hired by the Department of Planning as a planner to assist with redistricting. After the completion of the 2011 and 2012 redistricting process, I continued to assist with redistricting related projects but took on other projects assigned to the Planning Data Analysis Unit as well. I currently utilize ArcMap 10.3 for analysis and producing maps. I have experience with many versions of ArcMap going back to 9.3.

3. I am familiar with ArcMap and with the definitions of Census Designated Places. On or about May 30, 2017, I created maps of Rockville and Frederick City that depict: 1) the borders of census designated places as provided by the Census; 2) the borders of municipalities (these are defined by the local government, not the Census); 3) the borders of the voting tabulation districts, which in Maryland are also known as precincts, as they existed in 2011; 4) the 2011 Congressional Districts. Copies of these maps are attached as Exhibit A.

5. For the detail map of Frederick City, I did a visual inspection of the boundary of Frederick City but was only able to find one split area. As a double check, I utilized a spatial join with the municipal boundary and the congressional district boundaries. A

spatial join joins attributes from one feature (the municipal boundary) to the attributes of another (the congressional district boundaries). The output table will contain a record for each piece of the municipal boundary in a different congressional district. The output table I generated with ArcMap only had two records for Frederick City, one for the Sixth Congressional District and one for the Eighth. Through this process, I could determine that there was exactly one place where the Eighth District crossed the municipal boundary of Frederick City. I then zoomed in to a scale of 1: 220, or one inch on the map equals about 220 feet on the ground. I placed a purple circle around the area where the Eighth District crosses the municipal boundary of Frederick City. Using the adjusted 2010 Census data and the identify function, I could determine that this area contained zero population.

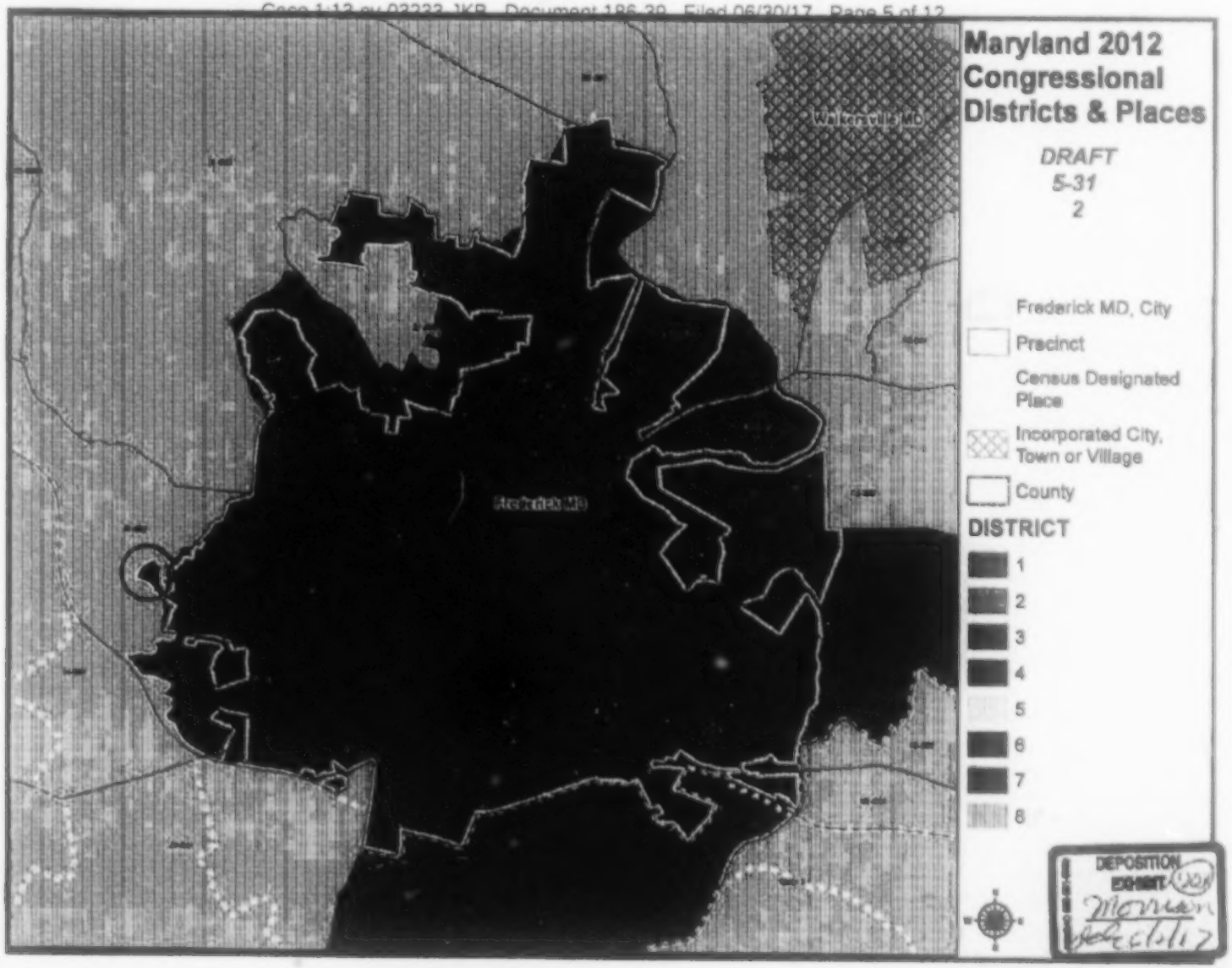
6. I have repeated this process to produce map details highlighting the areas where the Sixth District crosses the municipal boundary of Rockville. They are attached as Exhibit B. There are five areas and those follow the boundary of Precincts 04-026, 04-019, and 04-009. Using the adjusted 2010 Census data and the identify function, I could determine that one of the areas contained a population of 4 persons. The others areas contained no population.

7. Other than Rockville and Frederick City, the Eighth District does not cross the municipal boundary of any city in the Sixth District. No district other than the Eighth borders the Sixth District. This was determined using a visual inspection of the Congressional Districts to determine neighboring districts. The output of the spatial join was used to determine if any other cities in the Sixth District were also crossed by the Eighth District.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

6/29/17
Date

Shelly Aprill
Shelly Aprill


Maryland 2012
Congressional
Districts & Places
DRAFT
5-31
2
Frederick MD, City
Precinct
Census Designated
Place
Incorporated City,
Town or Village
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DEPOSITION
EXHIBIT
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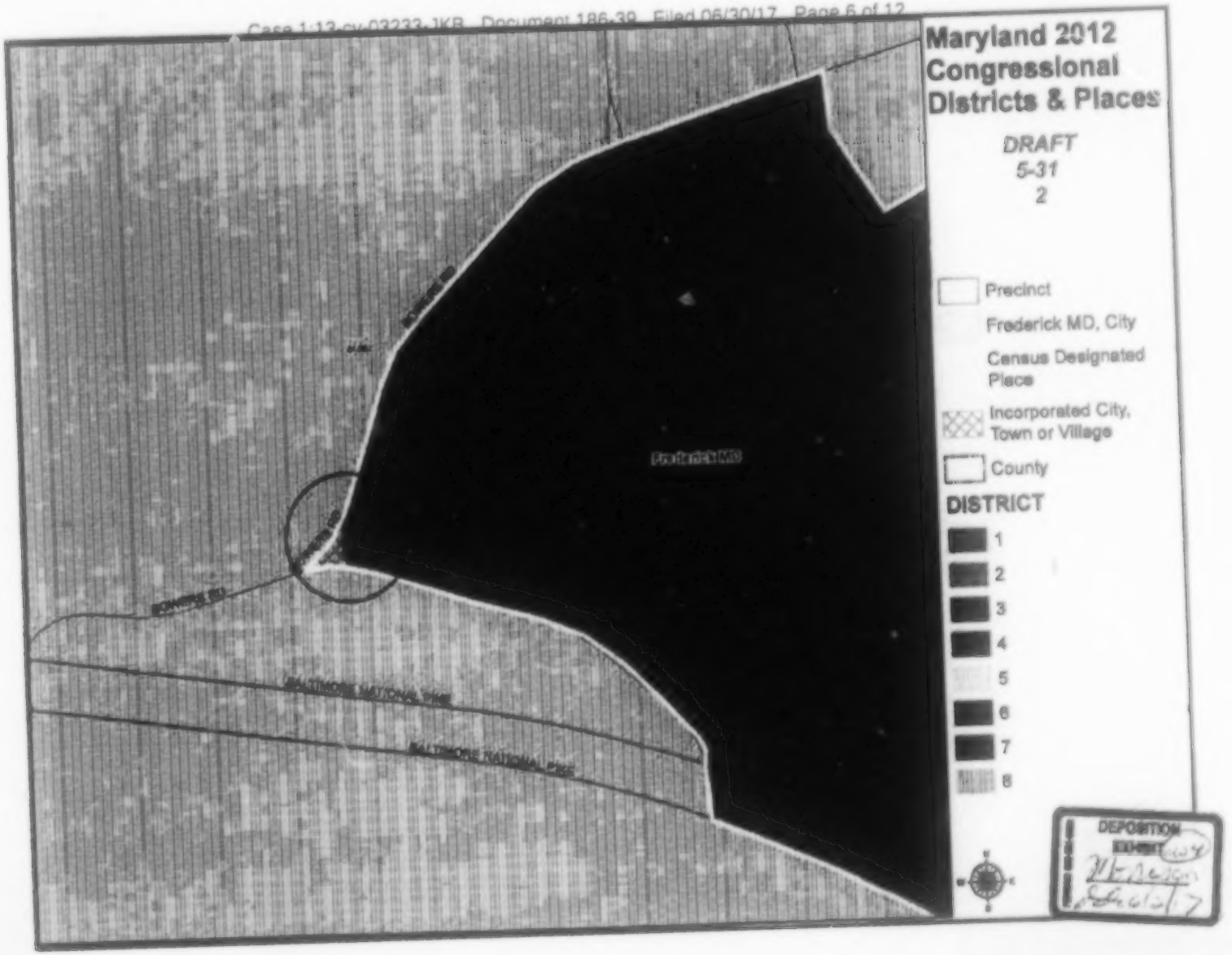
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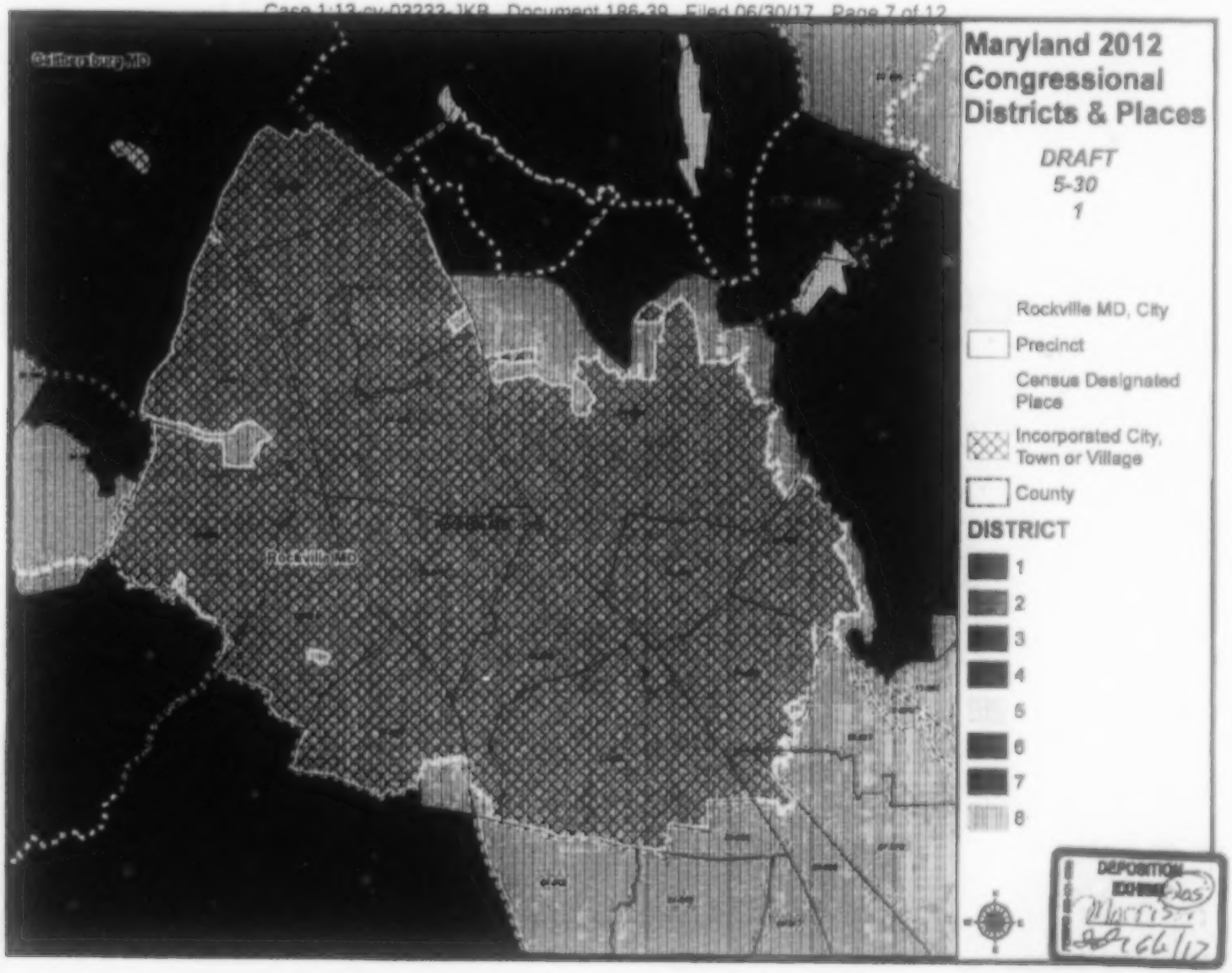
Gaithersburg MD
Rockville MD
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Congressional
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Rockville MD, City
Precinct
Census Designated
Place
Incorporated City,
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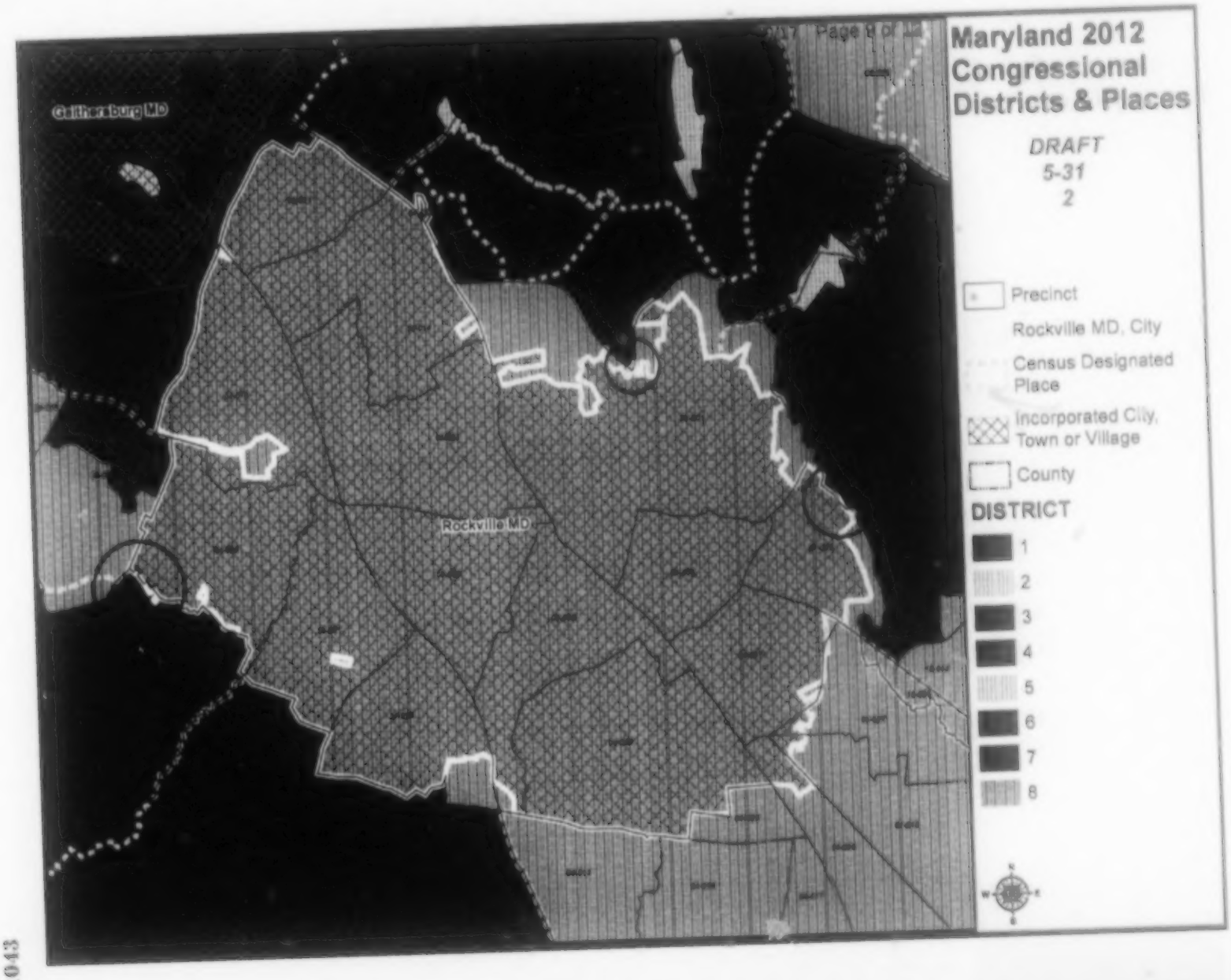
DEPOSITION
EXHIBIT
Harris
06/17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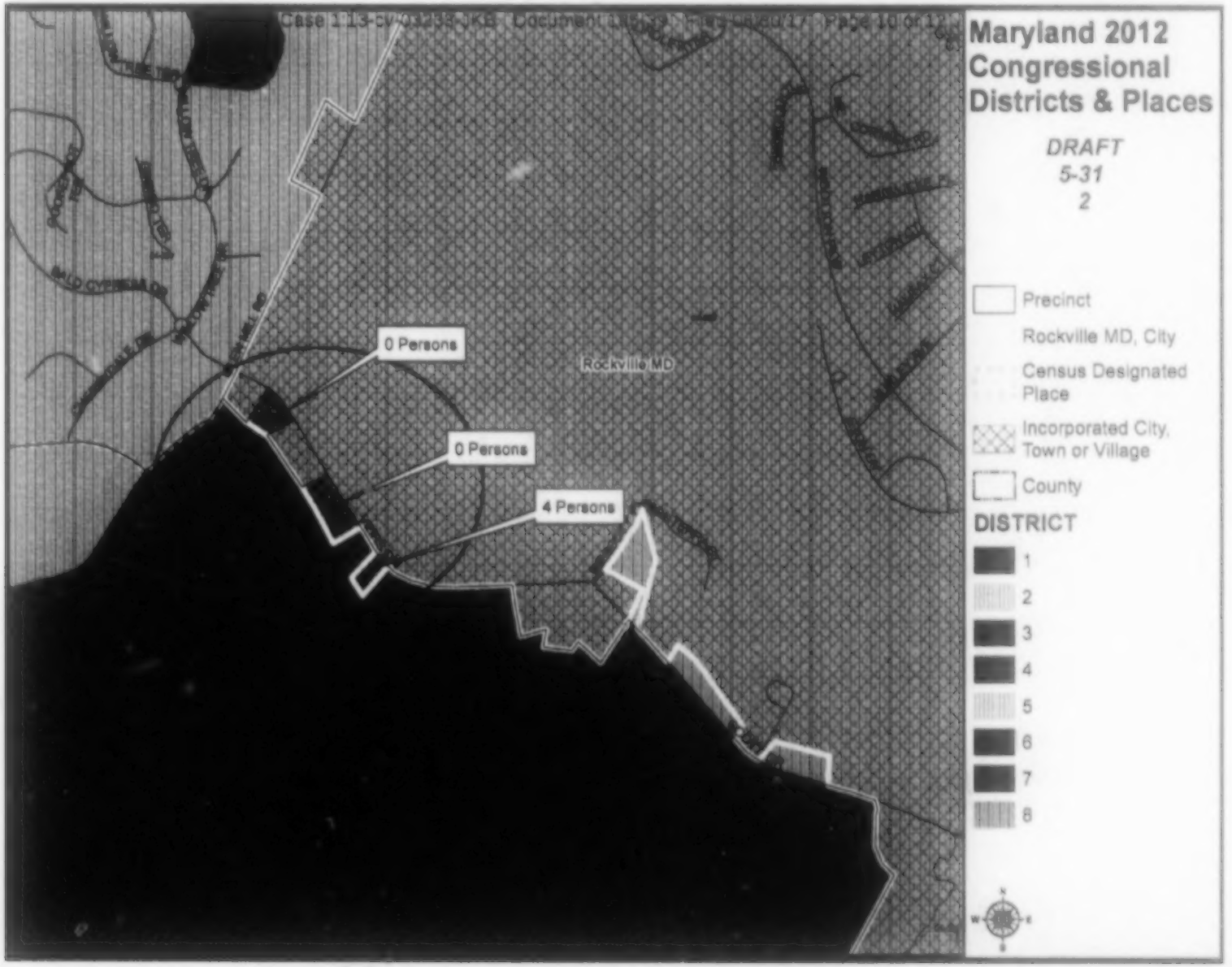
Case 1:13-cv-01291-JKB Document 1-2 Filed 05/17/13 Page 10 of 12
Maryland 2012 Congressional Districts & Places
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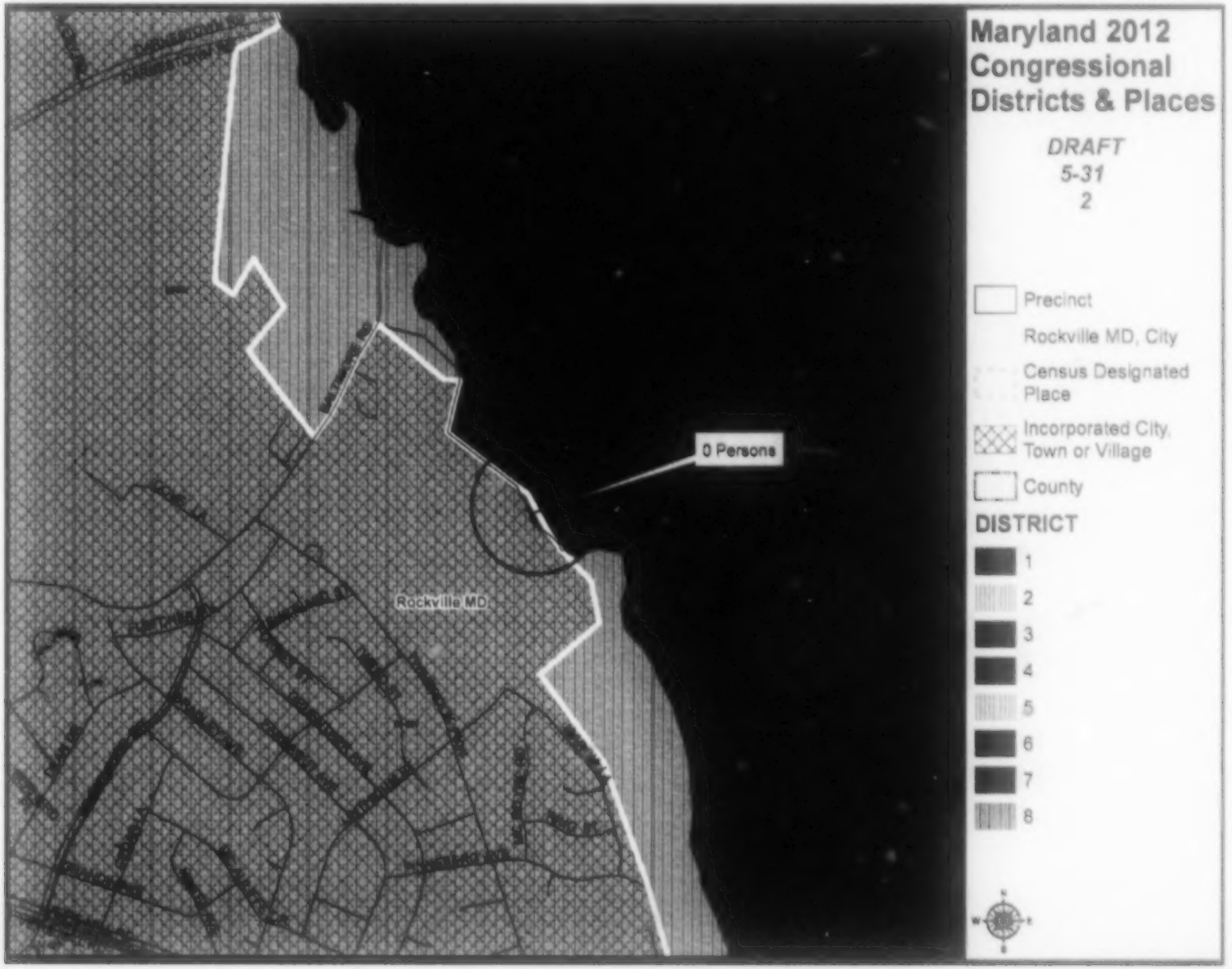
Maryland 2012
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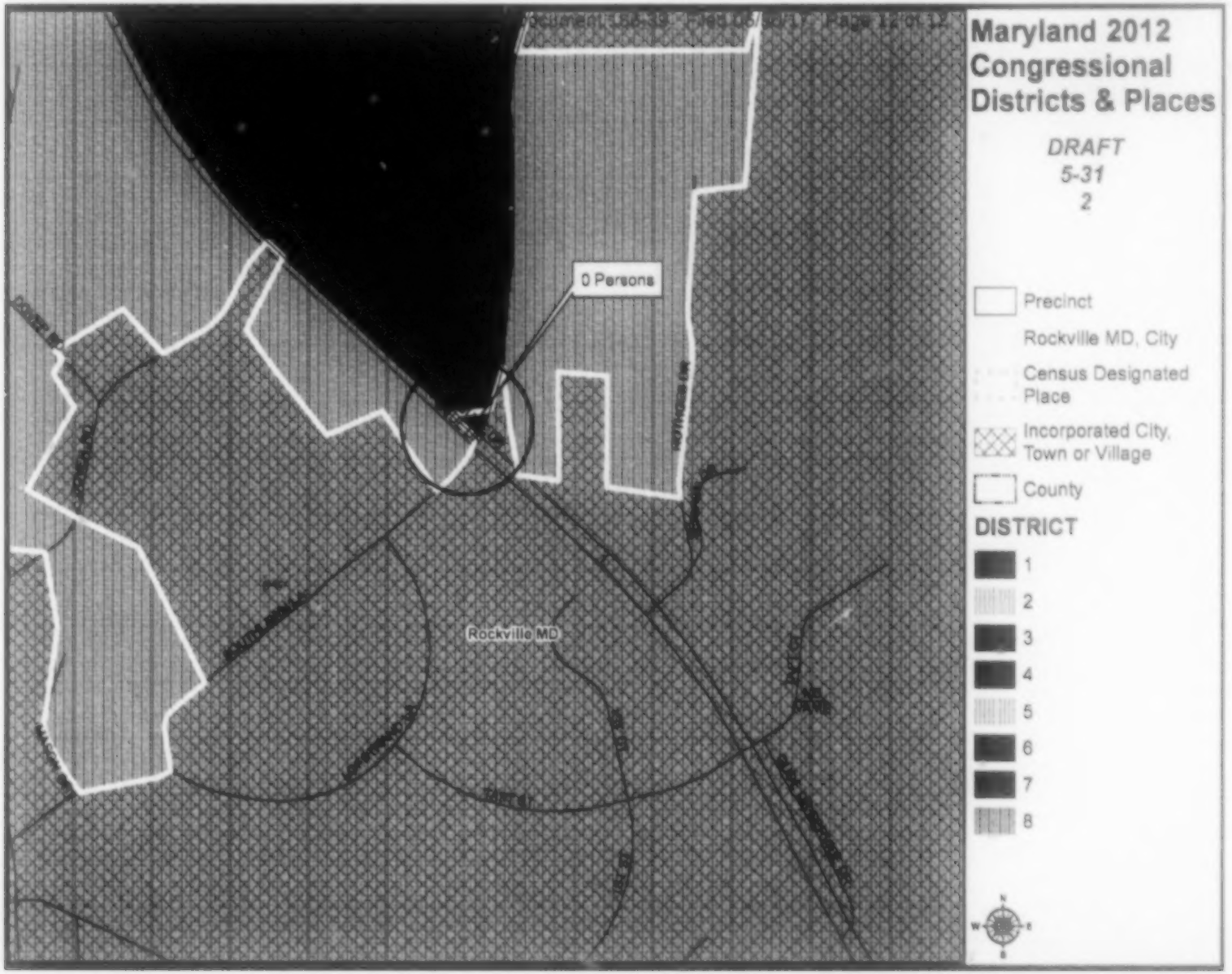
0 Persons
Rockville MD


Maryland 2012
Congressional
Districts & Places
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Rockville MD
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U.S. Senator

(Vote for One) View the breakdown of these results

Name	Party	Early Voting	Election Day	Absentee / Provisional	Total	Percentage
Ben Cardin ✓	Democratic	283,235	1,004,175	136,690	1,474,037	55.5%
Daniel John Bongino	Republican	67,972	564,958	60,361	693,291	26.3%
Dean Ahmad	Libertarian	3,190	26,160	2,882	32,252	1.2%
S. Rob Sobhani	Unaffiliated	48,947	360,330	20,707	430,934	16.4%
Lih Young (Write In)	Democratic	60	112	1	169	0.0%
Mary Pottowski (Write In)	Republican	2	18	1	21	0.0%
Brandy Baker (Write In)	Unaffiliated	34	106	11	151	0.0%
Ed Tinus (Write In)	Unaffiliated	8	37	2	48	0.0%
Other Write-Ins	N/A	272	1,660	231	2,346	0.1%

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Representative in Congress

Congressional District 8

(Vote for One) View the breakdown of these results

Name	Party	Early Voting	Election Day	Absentee / Provisional	Total	Percentage
John Delaney ✔	Democratic	30,452	157,039	14,440	191,821	59.6%
Rasmus G. Gerlach	Republican	13,582	95,389	8,438	117,313	37.0%
Nicholaus Mueller	Libertarian	939	8,360	657	9,816	3.2%
Other Write-Ins	N/A	58	324	39	369	0.1%

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Official 2014 Gubernatorial General Election results for Attorney General

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NR: not reported

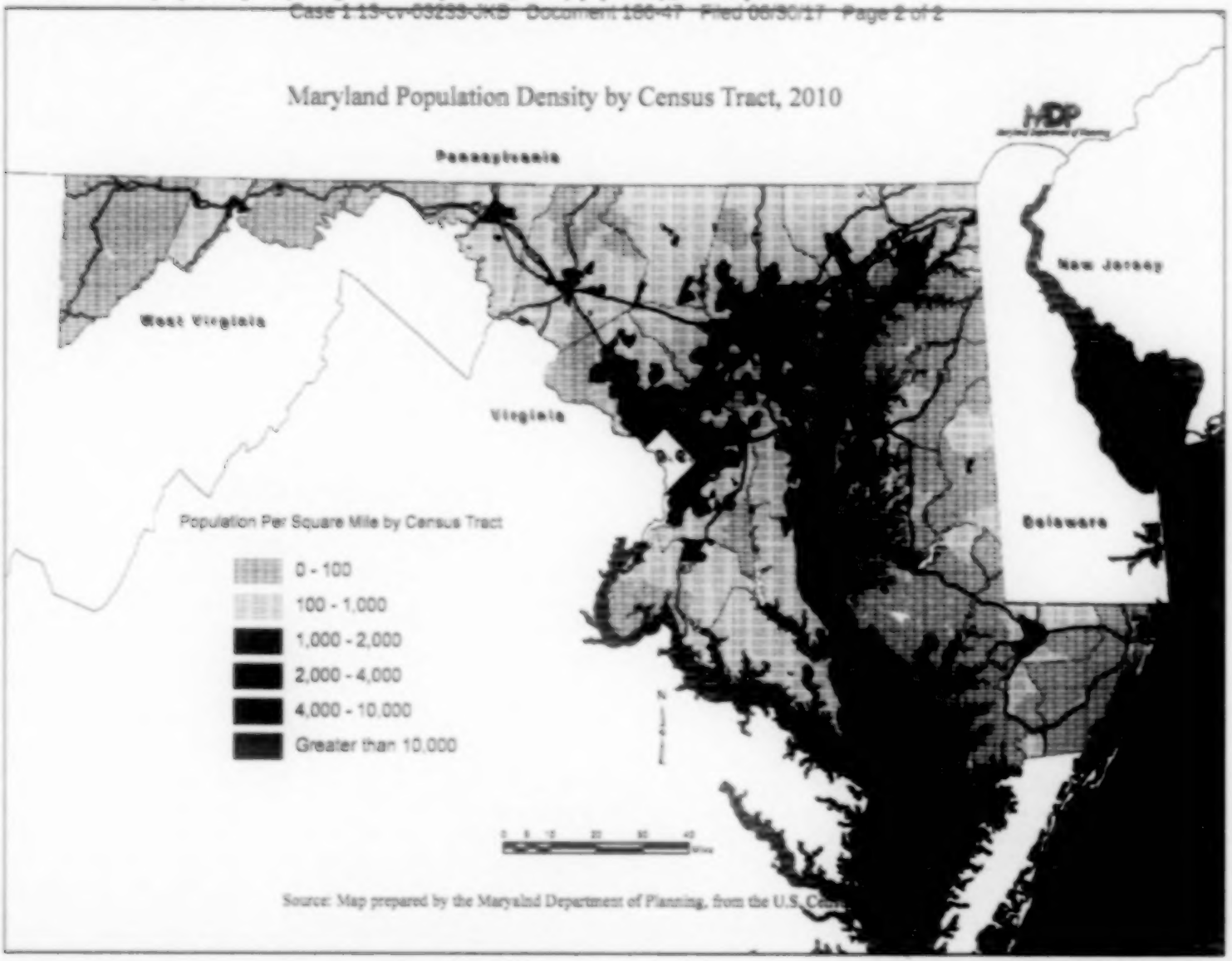
Printer Friendly Version

Attorney General

(Vote for One) County Break Down

Name	Party	Early Voting	Election Day	Absentee / Provisional	Total	Percentage
Brian E. Frosh ✔	Democratic	184,918	701,388	46,542	933,848	59.8%
Jeffrey N. Pritzker	Republican	104,787	648,904	28,594	682,285	40.7%
Lee Wayne Dymowski	Libertarian	7,180	46,783	3,138	57,099	3.4%
Other Write-Ins	N/A	434	1,570	68	2,068	0.1%

Available at http://planning.maryland.gov/msdc/Population_density/popdensity_2010ct3.pdf



Executive Summary

Administrative Action

(X) Environmental Assessment

(X) Alternatives Analysis

( ) Draft Environmental Impact Statement

( ) Section 4(f) Evaluation

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Description of Action/Purpose and Need

Description of the Action

The Maryland State Highway Administration (SHA) and Maryland Transit Administration (MTA) are developing a multimodal transportation project along the I-270/US 15 Corridor in Montgomery and Frederick Counties, Maryland. The project study area extends from I-270 at Shady Grove Road in Montgomery County to the US 15/Biggs Ford Road intersection in Frederick County. The project includes the development of transportation systems management (TSM)/transit demand management (TDM) strategies, enhancing the highway corridor with additional capacity in the form of general purpose and managed lanes, and constructing a new transit corridor for either light rail transit (LRT) or bus rapid transit (BRT). The project study area is shown in *Figure S-1*.

Initially, the study presented alternatives in a Draft Environmental Impact Statement (DEIS) that was published in June 2002. This document is intended to serve as a companion to the 2002 DEIS, and presents two new highway project alternatives that were developed since the 2002 DEIS was published for public review and comment.

This Alternatives Analysis/Environmental Assessment (AA/EA) document serves two purposes. As an EA, the document supplements the environmental evaluation presented in the 2002 DEIS. This EA provides an environmental evaluation, as required by the National Environmental Policy Act (NEPA) of two new highway build alternatives that propose Express Toll Lanes (ETLs[SM]) along with two transit alternatives that will provide LRT or BRT on the Corridor Cities Transitway (CCT). The EA provides the information that will allow a comparison of the DEIS alternatives and the new ETL alternatives to guide decision makers in the selection of a Locally Preferred Alternative and, finally, a Selected Alternative for construction.

Figure S-1: Project Area

1051

participation in, matters relating to human health or the environment." The Order directs agencies to ensure that:

- They do not discriminate on the basis of race, color, or national origin.
- They identify and address disproportionately high and adverse human health or environmental effects of their actions on minority and low-income communities.
- They provide opportunities for community input in the NEPA process, including input on potential effects and mitigation measures.

The analysis identified 21 census block groups that met the threshold where there would be a potentially disproportionate number of minority or low-income persons affected by the project. The block groups that met the minority EJ threshold are located adjacent to the corridor between I-370 and MD 124 in Montgomery County and north of MD 80 in Frederick County. These affected areas of EJ populations were compared to areas of no-impact or low impact to determine if the environmental effects could be considered "disproportionately high and adverse" on minority populations and/or low-income populations. The potential effects on land use, community facilities and services, air, noise, public health and safety, visual effects, and traffic and transportation are comparable throughout the corridor, and generally occur equally on both sides of the highway. Impacts and proposed mitigations in EJ areas were reviewed with regard to the following impact categories: displacements and relocation; community cohesion and access; economic activity; visual conditions; noise; and traffic and transportation.

Displacements and Relocation

Of the 256-260 potential displacements, 246 are located in areas considered potential EJ areas: between I-370 and MD 117 in the Brighton Woods (81 residences), London Derry (150 residences) and Caulfield (one residence) communities in Montgomery County and in the Foxcroft Ln community in the City of Frederick. The extent of the proposed impacts with regard to these resources would not be considered a disproportionately high and adverse effect under the EJ guidelines. However, the potential number of property displacements and adverse effects in EJ areas, when compared to non-EJ areas along the corridor, suggests a disproportionately high or adverse impact. Alternatives 6A/B and 7A/B follow existing I-270 and include relatively equal widening on both sides of the roadway for the entire length of the project. The highway design is similar in other areas along the corridor but results in more adverse effects in the EJ areas due to the density of the residential areas and their proximity to the highway.

The widening of I-270 would result in unavoidable adverse effects to EJ areas on both sides of the roadway. Given that the corridor widening is relatively equal on both side of the existing roadway, the potential impacts to adjacent EJ areas will be generally distributed equally on both sides, as well, with no intent to incur greater impacts to one side of the roadway and avoid impacts to the other side. The large number of potential displacements in these EJ areas (compared to other areas along the corridor) may be reduced through the use of retaining walls and narrowed shoulders that will be determined during design.

The transitway will also affect the same residences in the Caulfield community. A potential Ohkhl site in this same census tract would displace up to four additional residences in this area. The final location of an Ohkhl facility for the transitway has not yet been identified, and this site may not be chosen. These displacements may be considered a disproportionately high or adverse impact to EJ populations if this site is chosen.

Community Cohesion and Access

The alternatives would not affect community cohesion in the traditional sense, as the communities and the impacts to these communities are located adjacent to an existing highway facility. The improvements would not divide communities. The loss of neighbors adjacent to the highway would disrupt the sense of community cohesion as they are relocated. There are no impacts to access with the build alternatives. Relocations within the same neighborhoods, if available, could minimize the sense of loss of community.

Economic Activity

The analysis identified positive economic impacts associated with the project including potential increases in property value due to increased transit access, improved travel time in both ETLs and general purpose lanes, and the addition of three transitway station locations in EJ areas (East Gaither, West Gaither, and Metropolitan Grove) that would provide improved access to transit opportunities. The potential for increased housing costs does exist for historically minority and low-income neighborhoods located in or near the City of Frederick due to improved access to the corridor that would be provided by the highway improvements. Another potential concern is determining the extent to which low-income populations would be able to benefit from the use of ETLs based upon the pricing index and trip diversion to the general purpose lanes.

Visual Conditions

Alternatives 6A/B and 7A/B would increase the visual presence of the highway with additional lanes, retaining walls (recommended for minimizing potential displacements), and noise barriers (for noise reduction). Alternatives 6A/B and 7A/B are expected to have similar visual effects although Alternative 7A/B would add two lanes in each direction between MD 121 and north of MD 80 in Frederick County and Alternative 6A/B would add one lane in each direction. Noise barriers would provide a measure of visual screening as well as noise abatement where they are installed.

The transitway alignment will have moderate visual effects since it would travel mostly at ground level. The potential transit station sites would have the greatest degree of visual effect on EJ areas. These station sites will use land within several new and emerging communities. The East and West Gaither Stations and the Metropolitan Grove Station would add new visual elements and public activity centers within EJ areas. The visual effects may be somewhat offset by designing stations to be visually compatible with the surrounding neighborhoods.

Noise

Potential noise effects from the project would occur throughout the corridor. Noise barriers would reduce adverse noise effects from the project. Noise barriers will be provided where feasible and reasonable. After mitigation, no further noise impacts are anticipated on EJ areas from the highway or transitway alignments or associated facilities. Therefore, the extent of the projected impacts on the block groups identified within EJ areas would not be considered a disproportionately high and adverse impact under the EJ guidelines.

Traffic and Transportation

All residents in the corridor, including those who live in EJ areas, can expect to benefit from the project through improved transportation access and a modest reduction in traffic on local roads with the provision of more public transportation in the area. Alternatives 6A/B and 7A/B include improvements to existing interchanges, construction of new interchanges, and construction of access roads in several locations that will improve traffic, transportation access, and safety. The access improvements would benefit all travelers within the corridor including those who live and work in EJ areas. Four of ten interchange improvements are located in EJ areas, but no new interchanges are located in EJ areas.

Both residents and employers in the corridor can expect transportation benefits from the project. With the transitway, area residents will have improved access throughout the corridor and the surrounding area can expect a modest reduction in traffic on local roads as a result of more public transportation in the area.

Economic Environment

Existing Economic Environment

The I-270/US 15 Corridor is one of Maryland's premier economic regions. Frederick and Montgomery Counties combined account for *21.8 percent of all* jobs in Maryland. *Many of these jobs are located directly along the* I-270/US 15 and CCT alignments, with the highest concentrations in central Montgomery County. Workers in Montgomery and Frederick Counties actually take home over a quarter (*25.4 percent) of the state's* total wages.

Montgomery County's economy is led by three industries that make up over half of the county's total employment: professional and business services; education and health services; and trade, transportation and utility-related industries. Montgomery County's portion of the I-270/US 15 corridor is the favored location for many high-tech businesses, especially biotechnology and information technology firms. Montgomery County leads the state in the number of high-tech firms.

The Frederick County economy is led by four key industries that also account for over half of the county's employment: education and health services; trade, transportation and utilities; professional and business services; and construction. Frederick County is developing two technology parks, Mount Saint Mary's Bio Park and Jefferson Technology Park, and already houses several major bio-tech employers including the US Army Medical Research Institute of Infectious Diseases at Fort Detrick.

In the I-270/US 15 Corridor, most major employment centers in the corridor are located in the southern end in Montgomery County, within the Corridor Cities of Rockville, Gaithersburg, Germantown and Clarksburg. The City of Frederick is the major location of employment in Frederick County.

Economic Impacts

Overall, the build alternatives will create relatively small positive economic development effects when compared with the large amount of economic growth forecasted to occur in the project area, with or without the project. Nonetheless, the congestion relief provided will provide a positive impact with increased accessibility of people, goods, and workers, thus helping the area maintain its economic edge. Accessibility is measured in three areas: ease of getting to employment destinations; ease in getting to shopping destinations; and, from a business perspective, ease in attracting potential customers.

Consumers would benefit from the project with better access to shopping destinations. Retail businesses could see a benefit from a broader customer base that can reach stores in a shorter time. Workers would benefit in two ways. In the shorter term, workers would benefit from the number of jobs that construction of the project would provide. Both Alternative 6A/B and 7A/B would provide a similar amount of jobs, with the construction of the light rail requiring about 400 more jobs than building the bus rapid transit line. A more permanent benefit to workers is increased accessibility to jobs in a shorter time and/or within a wider area.

Local government property tax revenues could be influenced in three ways by the project: (1) through direct takings of property off the tax rolls to construct the improvements; (2) the stimulation of new development which would increase property tax revenues; and (3) ground property value increases associated with the accessibility improvements. Both highway options are expected to increase the value of, and development potential for, open lands along the corridor, especially in northern Montgomery County and central and southern Frederick County. The transit options also have the potential to increase transit oriented development opportunities.

Cultural Resources

Cultural resources and the impacts of the project on these resources are described in greater detail in Chapter IV.D. Ten historic properties were identified within the Area of Potential Effects (APE) of Alternatives 6A/B and 7A/B. Impacts to historic properties include the physical taking of land, trains, and visual changes that would result in adverse effects.

Of the ten historic properties within the APE, Alternatives 6A/B and 7A/B would have an adverse effect on eight, listed below with their Maryland Inventory of Historic Properties (MIHP) numbers:

- **England/Crown Farm (M:20-17)**
- **Belward Farm (M:20-21)**
- **Atomic Energy Commission Building (M:19-41)**
- **Monocacy National Battlefield (F-5-42)**
- **Schiffbauer (F-5-47)**
- **Rose Hill Manor (F-5-128)**
- **Spring Bank (F-5-22)**
- **Rizzy-Rockley Farm (F-5-134)**

Alternatives 6A/B and 7A/B would have no adverse effect on the remaining two properties, Worman House (F-5-198) and Harmony Grove Union Chapel (F-5-197).

No additional archeological investigations were done since the DEIS. Additional archeological investigations will be necessary once an alternative is selected. Owners of the properties have been notified and have been invited to consult with SHA, MTA and the MD SHPO about the effects of the project and potential minimization and mitigation efforts. A Memorandum of Agreement (MOA) is being coordinated with the MD SHPO and the owners of affected properties that will identify the measures to be taken to address the adverse effects. The MOA will also include stipulations to identify and treat any unanticipated archeological discoveries if they are found.

Section 4(f) Summary

The Section 4(f) evaluation was performed in accordance with the US Department of Transportation Act of 1966, 49 USC 303(c), as implemented through 23 CFR 774 by the FHWA. In summary, the evaluation, detailed in **Chapter IV.E**, identified 13 publicly-owned public parks or recreation areas and seven historic properties that would be affected by Alternatives 6A/B and 7A/B. The methodology to evaluate Section 4(f) resources included the following steps: identification of resources via coordination with the agency with jurisdiction over the resource; identification of potential uses of Section 4(f) properties caused by Alternatives 6A/B and 7A/B (including property acquisition, impacts to activities, impacts such as noise and visual effects); exploring potential avoidance alternatives; and evaluating planning to minimize harm. Quantitative efforts included measurements of property acreage impacts, predicting future noise levels, and projecting future air quality in the project corridor. Qualitative efforts included an assessment of visual impacts, including those from mitigation efforts. The project team intends to pursue a *de minimus* finding for nine public parks that are impacted by the alternatives. Throughout the Section 4(f) process, SHA and MTA have consulted with the Maryland State Historic Preservation Officer (SHPO), owners of the historic resources, and parks officials in matters of potential impacts including potential avoidance and minimization efforts.

Section 4(f) Resources

The following publicly-owned public parks and recreation areas would be impacted by Alternatives 6A/B and 7A/B: Malcolm King Park, Manor Park, Seneca Creek State Park, Middlebrook Hill Neighborhood Conservation Area, North Germantown Greenway, Black Hill Regional Park, Little Bennett Regional Park, Urbana Lake Fish Management Area, Urbana Elementary School Recreation Area, Urbana Community Park, Monocacy National Battlefield, Baker Park and Rose Hill Manor Park. Historic properties impacted by Alternatives 6A/B and 7A/B include England/Crown Farm, Belward Farm, the Atomic Energy Commission Building, Monocacy National Battlefield National Historic Landmark, Schiffbauer, Rose Hill Manor, and Rizzy-Rockley Farm.

Section 4(f) Uses

Alternatives 6A/B and 7A/B would require right-of-way from each Section 4(f) resource listed above for the construction of additional lanes, ramps and intersections along the I-270/US 15 corridor. Most of these impacts would require the acquisition of a narrow strip of land from the resource adjacent to the existing highway. The uses and impacts are shown on Table *IV-18* and *Table IV-19* in **Chapter IV.E**.

Avoidance Analysis

While the No-Build Alternative and the TSM/TDM Alternative (discussed in the 2002 DEIS) would be considered as avoidance alternatives, they do not meet the project's purpose and need. Due to the magnitude and scope of the project, an avoidance alternative that eliminates all of the impacts is not prudent or feasible.

The project team intends to pursue a *de minimis* finding for nine of the public parks (not including Urbana Elementary School Recreation Area, Monocacy National Battlefield, Baker Park and Rose Hill Manor Park) impacted by the alternatives.

Least Overall Harm Analysis

Avoidance options, including retaining walls, centerline shifts and design changes, were evaluated for each individual resource. Measures to minimize harm to each of the resources impacted include the use of 2:1 slopes in the conceptual highway design as well as the potential for retaining walls, minimized shoulder widths, and design modifications. These minimization

Republican Registration, Compiled from http://elections.state.md.us/press_room/2010_stats/gg10_statewide.pdf; http://elections.state.md.us/press_room/documents/PG12/PrecinctRegisterCounts/Statewide.pdf; http://elections.state.md.us/press_room/2014_stats/PrecinctRegisterCounts_ByCounty_GG14.pdf; http://elections.state.md.us/press_room/2016_stats/PG16_Eligible_Active_Voters_by_County.pdf				
County	**2010 General Election**	**2012 General Election**	**2014 General Election**	**2016 General Election**
Allegany	19,827	20,006	20,200	21,060
Carroll	54,327	56,870	58,969	62,535
Frederick	57,958	61,079	61,145	65,905
Garrett	11,379	11,625	12,018	12,466
Washington	37,027	38,551	39,134	41,912

*As of 10/17/10

Counts by County

	Dems	Reps	Grn	Con	Lib	UNA	OTH	Subtotal
Allegany	18,608	19,827	130	12	119	5,305	449	42,450
Anne Arundel	145,707	120,970	840	76	1,114	62,255	139	331,101
Baltimore City	289,776	32,027	1,404	29	701	40,231	1,340	365,508
Baltimore County	290,998	128,638	1,326	80	1,499	64,706	5,620	492,869
Calvert	23,171	22,464	119	11	149	9,860	526	56,300
Caroline	7,407	7,481	38	5	59	2,949	120	18,037
Carroll	33,158	54,327	256	51	304	16,309	799	105,201
Cecil	24,530	22,853	143	26	208	11,218	860	59,837
Charles	50,767	24,687	131	19	197	13,609	579	89,989
Dorchester	10,392	6,982	26	2	41	2,185	150	19,778
Frederick	52,181	57,958	359	32	453	26,637	78	137,698
Garrett	4,994	11,379	39	3	45	1,788	186	18,434
Harford	62,100	63,101	274	37	512	22,310	719	149,053
Howard	66,045	55,017	440	41	571	34,159	1,810	178,083
Kent	6,170	4,476	42	3	35	1,621	135	12,482
Montgomery	324,195	123,253	1,432	59	1,364	122,587	541	573,431
Prince George's	403,582	46,641	710	55	732	43,061	22,719	517,500
Queen Anne's	11,089	13,982	64	8	96	4,260	207	29,705
Saint Mary's	24,632	23,454	150	14	191	10,248	526	59,213
Somerset	7,222	4,329	21	3	26	1,537	120	13,258
Talbot	10,166	11,073	51	7	79	3,615	315	25,306
Washington	31,340	37,027	219	20	234	14,347	89	83,276
Wicomico	25,366	19,786	113	9	151	8,176	668	54,268
Worcester	15,715	13,903	66	5	105	5,273	441	35,510
	1,967,279	925,614	8,392	606	8,984	528,274	39,136	3,468,287

1055

Election: 2012 PRESIDENTIAL GENERAL ELECTION
Election Date: 11/6/2012
STATEWIDE

*As of 10/21/2012

Legislative Districts in this report reflect the districts as defined prior to the 2010 Census.

Countywide Counts

	Dems	Reps	Grn	Lib	UNA	OTH	Subtotal
Allegany	15,557	20,006	121	143	5,891	410	42,128
Anne Arundel	149,232	125,386	874	1,393	71,623	262	348,770
Baltimore City	308,078	33,005	1,401	917	46,849	1,534	392,584
Baltimore County	297,941	132,720	1,338	1,808	75,760	5,843	515,408
Calvert	23,349	23,448	136	192	11,201	535	58,863
Caroline	7,183	7,636	36	59	3,108	141	18,165
Carroll	32,778	56,870	270	396	19,092	988	110,394
Cecil	24,197	24,372	140	244	12,824	744	62,521
Charles	55,690	25,339	140	234	15,712	572	97,687
Dorchester	10,414	7,131	25	47	2,424	126	20,167
Frederick	54,564	61,079	401	577	31,441	94	148,156
Garrett	4,724	11,825	36	52	2,064	208	18,729
Harford	63,549	67,467	315	649	26,856	1,133	159,968
Howard	90,072	56,330	471	696	38,779	2,398	188,748
Kent	6,085	4,572	35	44	1,708	140	12,594
Montgomery	345,449	125,185	1,509	1,745	139,040	3,072	616,000
Prince George's	443,643	47,472	765	940	56,106	19,665	568,591
Queen Anne's	11,366	15,284	84	111	5,295	209	32,329
Saint Mary's	25,295	25,721	144	245	12,049	469	63,923
Somerset	7,249	4,600	19	30	1,694	121	13,713
Talbot	9,896	10,979	48	91	4,012	267	25,295
Washington	31,750	38,551	236	322	16,150	282	87,291
Wicomico	25,474	20,855	117	192	9,310	676	56,424
Worcester	14,997	14,423	71	126	6,080	382	36,079
	2,059,544	959,858	8,718	11,266	614,667	40,266	3,694,527

Eligible Active Voters on the Precinct Register - By County

2014 GUBERNATORIAL GENERAL ELECTION

Election Date: 11/04/2014

***As of October 18, 2014*

COUNTY	DEM	REP	LIB	GRN	OTH	UNA	TOTAL
Allegany	15,140	20,200	203	116	378	6,523	42,560
Anne Arundel	147,091	123,998	1,748	825	320	75,331	349,313
Baltimore City	293,242	30,156	1,094	1,215	1,366	46,098	373,171
Baltimore County	297,506	131,289	2,321	1,293	4,845	83,876	521,130
Calvert	23,222	23,930	271	129	485	11,956	59,976
Caroline	6,944	7,740	88	31	148	3,402	18,353
Carroll	31,084	58,969	596	266	882	21,149	112,946
Cecil	22,917	24,692	300	129	665	13,288	61,991
Charles	56,745	24,352	329	122	541	18,360	100,449
Dorchester	10,306	7,237	65	29	118	2,711	20,466
Frederick	54,421	61,145	781	401	200	33,947	150,895
Garrett	4,617	12,018	74	36	187	2,360	19,292
Harford	62,814	88,958	903	321	1,227	30,557	184,780
Howard	93,408	55,440	907	478	2,213	42,994	195,440
Kent	6,023	4,550	54	29	129	1,939	12,724
Montgomery	357,137	121,520	2,216	1,602	3,840	148,348	634,663
Prince George's	427,948	41,780	1,059	746	14,752	58,394	544,677
Queen Anne's	10,964	15,877	153	54	199	5,928	33,175
Saint Mary's	25,034	25,797	316	128	449	12,786	64,510
Somerset	6,409	4,731	31	15	101	1,712	12,999
Talbot	9,647	11,156	114	47	221	4,478	25,663
Washington	31,917	39,134	425	240	330	18,051	90,097
Wicomico	25,314	20,504	268	118	534	9,958	56,696
Worcester	14,433	14,391	161	75	360	6,279	35,699
	2,036,281	949,564	14,477	8,445	34,470	658,428	3,701,665

Eligible Active Voters on the Precinct Register - By County

Election: 2016 Presidential General Election

Election Date: November 08, 2016

***As of October 23, 2016*

county	DEM	REP	LIB	GRN	UNA	OTH	Total
Allegany	14,477	21,080	245	118	6,830	321	43,051
Anne Arundel	158,739	135,542	2,364	821	79,071	965	377,502
Baltimore City	308,854	32,337	1,354	1,216	45,351	1,504	390,616
Baltimore County	307,392	143,003	2,899	1,404	87,703	4,485	546,886
Calvert	23,487	25,817	395	146	12,462	393	62,700
Caroline	6,844	8,803	112	27	3,582	130	19,498
Carroll	32,290	62,535	771	250	22,462	835	119,143
Cecil	22,476	27,579	399	148	13,717	577	64,896
Charles	64,092	26,123	428	139	17,065	489	108,334
Dorchester	10,240	7,880	105	27	2,880	111	21,223
Frederick	80,747	65,905	1,091	411	36,035	275	184,464
Garrett	4,425	12,466	90	41	2,389	153	19,544
Harford	63,984	75,417	1,165	341	32,287	1,140	174,334
Howard	102,742	56,959	1,120	473	44,060	1,891	207,245
Kent	6,085	4,700	58	22	1,973	116	12,952
Montgomery	384,194	121,644	2,760	1,609	141,731	4,736	656,674
Prince George's	454,428	43,135	1,445	942	63,551	12,308	575,809
Queen Anne's	10,803	17,289	211	79	6,236	177	34,795
Saint Mary's	25,690	29,054	478	123	13,607	420	69,372
Somerset	6,049	5,071	40	14	1,695	79	12,948
Talbot	10,030	11,625	137	42	4,721	192	26,747
Washington	32,182	41,912	615	241	18,329	407	93,686
Wicomico	26,134	22,255	349	143	10,387	444	59,712
Worcester	14,431	16,216	218	80	6,721	313	37,979
	2,150,795	1,014,307	18,845	8,857	674,825	32,461	3,900,090

2008 and 2012 Presidential-Year Turnout for Former Sixth District Counties [Source: http://elections.state.md.us/elections/2008/turnout/general/2008_Presidential_General_Statewide.html; http://elections.state.md.us/elections/2012/turnout/general/2012_General_Statewide.html]								
	Numbers of Democrats who Voted		Numbers of Republicans who Voted		Percent Registered Democrats who Voted		Percent Registered Republicans who Voted	
	2008	2012	2008	2012	2008	2012	2008	2012
Allegany	12,079	11,027	14,822	15,395	71.32%	70.88%	75.46%	76.95%
Carroll	28,235	26,164	44,994	47,547	81.61%	79.82%	83.11%	83.61%
Frederick	44,195	44,443	48,249	50,522	85.58%	81.45%	84.82%	82.72%
Garrett	3,598	3,216	8,332	8,784	70.11%	68.08%	74.96%	75.56%
Washington	24,511	23,177	28,869	30,076	74.54%	73.00%	76.63%	78.02%

2010 and 2014 Gubernatorial-Year Turnout for Former Sixth District Counties [Source: http://elections.state.md.us/elections/2010/turnout/general/2010_General_Statewide.html; http://elections.state.md.us/elections/2014/turnout/general/GG14_Turnout_by_party_by_county.xlsx]								
	Numbers of Democrats who Voted		Numbers of Republicans who Voted		Percent Registered Democrats who Voted		Percent Registered Republicans who Voted	
	2010	2014	2010	2014	2010	2014	2010	2014
Alleghany	8,585	7,079	12,043	11,537	51.69%	46.8%	60.74%	57.1%
Carroll	19,745	16,605	36,957	39,118	59.55%	53.4%	68.03%	66.3%
Frederick	29,114	28,901	36,390	38,157	55.79%	53.1%	62.79%	62.4%
Garrett	2,449	2,025	6,799	6,638	49.03%	43.9%	59.75%	55.2%
Washington	15,081	12,858	21,570	21,193	48.12%	40.3%	58.25%	54.2%

Elections by Year

2018
2016
2014
2012
2011 - Baltimore City
2010
2008
2007 - Baltimore City
2006
2004
2003/2004 - Baltimore City
2002
2000
1999 - Baltimore City
1998
1996
1995 - Baltimore City
1994
1992
1991 - Baltimore City
1990
1988
1987 - Baltimore City
1986
1983 - Baltimore City

Other Election Information

Special Elections
Districts
Electoral College
Presidential Candidate
Results in MD from 1948 to

2008 Presidential General Statewide

Statewide Total Turnout

County	Registered	Voted Polls	Provisional	Absentee	Total Voted	% Voted
Allegany	42,170	27,808	381	1,823	30,090	71.35%
Anne Arundel	329,437	240,189	3,942	17,540	261,671	79.43%
Baltimore City	356,142	227,796	7,779	15,562	251,137	66.21%
Baltimore	532,323	354,339	6,077	24,280	384,708	76.58%
Calvert	55,555	40,188	756	3,471	44,414	79.95%
Caroline	17,588	12,347	207	805	13,359	75.92%
Carroll	105,449	79,404	721	5,192	85,317	80.91%
Cecil	58,934	39,884	811	2,494	42,789	72.60%
Charles	87,731	64,418	884	5,384	70,686	80.57%
Dorchester	19,351	14,054	229	1,156	15,439	79.78%
Frederick	154,287	102,487	1,889	7,887	112,063	85.46%
Garrett	18,102	11,775	137	1,100	13,012	71.88%
Harford	149,861	114,437	1,710	8,102	124,249	83.03%
Howard	175,115	131,441	2,320	12,543	146,304	83.55%
Kent	12,769	9,014	100	1,045	10,159	79.82%
Montgomery	557,873	393,590	7,581	52,172	443,652	79.55%
Prince George's	497,421	339,216	12,481	29,228	380,925	76.58%
Queen Anne's	29,334	21,840	481	1,886	24,207	82.79%
St. Mary's	57,744	40,312	730	3,752	44,794	77.57%

Printed

Somerset	13,071	9,148	343	736	10,125	77.46%
Talbot	34,866	17,847	135	2,791	30,473	82.82%
Washington	85,163	57,048	1,014	4,185	62,345	73.57%
Wicomico	52,668	37,822	730	3,732	42,384	80.14%
Worcester	34,351	24,273	356	3,108	27,835	80.40%
Total	3,438,836	2,400,870	91,163	210,072	2,891,900	77.83%

Statewide Democratic Turnout

County	Registered	Voted Polls	Provisional	Absentee	Total Voted	% Voted
Allegany	19,938	11,181	191	757	12,579	71.32%
Anne Arundel	146,791	110,084	1,708	7,784	119,576	81.48%
Baltimore City	283,575	186,753	6,444	12,376	205,473	71.01%
Baltimore	358,781	217,210	5,520	14,714	236,744	78.80%
Calvert	23,283	17,276	265	1,313	19,084	82.04%
Caroline	7,483	5,394	91	371	5,756	76.92%
Carroll	34,586	26,573	199	1,960	28,280	81.81%
Cecil	34,878	18,712	282	1,047	18,021	75.02%
Charles	48,357	37,516	604	2,920	40,996	84.94%
Dorchester	10,250	7,457	137	884	8,348	80.47%
Frederick	91,843	40,140	707	3,343	44,190	86.09%
Garrett	5,132	3,211	40	347	3,598	70.11%
Harford	94,714	48,899	710	3,479	94,077	85.09%
Howard	84,799	65,014	1,127	6,326	73,387	86.41%
Kent	6,422	4,839	80	523	5,359	81.11%
Montgomery	513,089	334,952	4,468	32,445	391,873	83.11%
Prince George's	385,052	276,666	10,386	25,391	310,368	80.64%
Queen Anne's	11,318	8,439	141	785	9,355	82.68%
St. Mary's	24,889	17,772	288	1,887	19,756	79.34%
Somerset	7,413	5,162	170	497	5,771	77.86%
Talbot	10,116	7,256	59	1,080	8,348	82.51%
Washington	32,884	23,360	409	1,713	34,211	74.24%
Wicomico	34,828	18,008	372	1,827	20,368	81.00%
Worcester	13,524	11,001	117	1,464	12,572	80.89%
Total	1,843,311	1,393,854	33,580	123,095	1,549,329	79.84%

Statewide Republican Turnout

County	Registered	Voted Polls	Provisional	Absentee	Total Voted	% Voted
Allegany	19,842	13,710	122	660	14,502	75.48%
Anne Arundel	131,113	90,068	1,281	6,773	98,130	81.03%
Baltimore City	52,585	16,754	447	1,947	18,848	57.54%
Baltimore	131,873	83,888	1,245	8,704	101,837	77.32%
Calvert	23,230	16,018	275	1,404	18,215	81.06%

Caroline	7,665	5,012	66	522	5,700	80.36%
Carroll	54,136	42,126	366	2,466	44,864	83.11%
Cecil	22,479	15,890	209	1,038	17,136	76.19%
Charles	25,638	18,344	212	1,720	20,176	78.73%
Dorchester	8,770	5,344	58	397	5,799	84.05%
Frederick	58,886	44,017	571	3,181	48,249	84.82%
Garrett	11,115	7,811	78	643	8,532	74.98%
Harford	82,574	49,066	661	3,572	53,329	86.50%
Howard	68,299	42,504	486	3,597	46,417	89.88%
Kent	4,476	3,358	29	421	3,708	82.84%
Montgomery	134,543	85,804	1,421	10,017	97,442	78.34%
Prince George's	46,629	37,015	647	5,084	31,239	86.10%
Queen Anne's	13,665	10,010	215	913	11,843	84.58%
St. Mary's	23,468	18,157	270	1,917	17,844	79.91%
Somerset	4,681	3,013	39	283	3,315	81.83%
Talbot	10,801	7,952	61	1,248	9,249	85.83%
Washington	37,672	28,570	383	1,919	30,866	76.63%
Wicomico	18,399	14,869	252	1,446	16,347	84.31%
Worcester	13,211	9,911	83	1,253	11,157	84.46%
Total	835,366	668,099	9,569	57,137	732,765	79.10%

Statewide Green Turnout

County	Registered	Voted Polls	Provisional	Absentee	Total Voted	% Voted
Allegany	132	70	1	12	83	62.88%
Anne Arundel	852	487	14	48	549	64.44%
Baltimore City	1,480	791	19	82	892	57.77%
Baltimore	1,306	824	30	66	920	67.79%
Calvert	118	69	4	2	72	61.02%
Caroline	29	19	1	1	21	72.41%
Carroll	248	160	3	8	171	68.82%
Cecil	133	79	4	8	88	66.92%
Charles	127	74	0	9	83	65.35%
Dorchester	24	15	0	4	19	79.17%
Frederick	349	240	3	10	261	74.79%
Garrett	30	8	1	2	9	30.00%
Harford	269	174	3	15	192	71.38%
Howard	466	273	6	32	311	66.74%
Kent	49	30	0	2	28	58.33%
Montgomery	1,394	769	30	138	929	66.91%
Prince George's	664	361	12	30	403	60.69%
Queen Anne's	61	38	3	2	43	70.49%

St. Mary's	144	66	2	10	68	68.06%
Somerset	16	12	1	1	14	87.50%
Talbot	54	33	1	6	39	73.33%
Washington	239	131	4	13	138	66.53%
Wicomico	102	53	3	12	68	66.67%
Worcester	65	36	3	5	49	73.02%
Total	8,379	4,803	148	494	5,445	64.99%

Statewide Libertarian Turnout

County	Registered	Voted Polls	Provisional	Absentee	Total Voted	% Voted
Allegany	89	58	1	4	58	64.71%
Anne Arundel	861	577	25	45	648	72.58%
Baltimore City	589	536	16	25	577	66.37%
Baltimore	1,167	701	20	47	626	66.59%
Calvert	130	76	3	7	86	66.67%
Caroline	91	21	1	1	23	48.10%
Carroll	220	146	4	12	162	73.64%
Cecil	168	102	2	7	111	66.07%
Charles	151	88	0	13	101	66.89%
Dorchester	35	30	0	3	33	68.71%
Frederick	326	231	16	15	262	79.88%
Garrett	34	15	0	3	18	44.12%
Harford	364	289	9	15	310	76.89%
Howard	413	289	13	32	313	73.70%
Kent	22	14	0	0	14	63.64%
Montgomery	1,099	673	24	84	781	71.06%
Prince George's	598	320	24	30	394	61.90%
Queen Anne's	85	59	5	3	67	78.82%
St. Mary's	138	83	3	6	92	66.64%
Somerset	13	6	0	1	7	53.85%
Talbot	66	39	1	6	46	67.65%
Washington	213	110	4	7	127	59.67%
Wicomico	116	69	2	6	77	66.38%
Worcester	88	39	3	8	50	56.10%
Total	7,040	4,324	186	384	4,914	69.82%

Statewide Independent Turnout

County	Registered	Voted Polls	Provisional	Absentee	Total Voted	% Voted
Allegany	36	19	0	2	21	60.77%
Anne Arundel	1,096	790	27	179	996	90.71%
Baltimore City	503	443	44	66	551	94.80%
Baltimore	1,133	748	51	287	1,086	88.47%

Calvert	185	70	7	19	96	91.43%
Caroline	87	68	0	2	66	79.19%
Carroll	402	211	4	189	404	100.50%
Cecil	109	84	0	13	109	88.33%
Charles	391	303	4	70	377	95.66%
Dorchester	46	31	0	6	37	82.00%
Frederick	494	282	24	141	457	98.46%
Garrett	21	12	0	6	18	85.71%
Harford	303	339	3	97	339	92.60%
Howard	747	323	24	303	702	93.98%
Kent	27	20	2	4	26	96.30%
Montgomery	3,199	1,019	72	1,865	2,953	92.60%
Prince George's	909	637	65	230	952	104.73%
Queen Anne's	70	53	4	13	70	100.00%
St. Mary's	87	85	1	4	90	82.79%
Somerset	16	15	1	1	17	94.44%
Talbot	40	30	0	6	36	90.00%
Washington	169	101	3	60	169	88.60%
Wicomico	84	62	3	11	76	90.48%
Worcester	32	25	2	5	32	100.00%
Total	10,239	5,667	369	3,049	9,084	94.99%

Statewide Constitution Turnout

County	Registered	Voted Polls	Provisional	Absentee	Total Voted	% Voted
Allegany	2	2	0	0	2	100.00%
Anne Arundel	17	10	0	0	10	94.12%
Baltimore City	7	4	0	0	4	57.14%
Baltimore	11	0	2	2	10	90.91%
Calvert	4	2	0	1	3	75.00%
Caroline	2	1	0	0	1	50.00%
Carroll	3	3	0	0	3	100.00%
Cecil	4	4	2	0	8	100.00%
Charles	3	2	0	0	2	66.67%
Dorchester	0	0	0	0	0	N/A
Frederick	7	7	0	0	7	100.00%
Garrett	1	1	0	0	1	100.00%
Harford	7	7	0	1	8	114.29%
Howard	8	5	0	2	7	87.50%
Kent	1	0	0	1	1	100.00%
Montgomery	12	7	1	1	9	75.00%
Prince George's	8	5	1	1	7	87.50%

Queen Anne's	1	1	0	0	1	100.00%
St. Mary's	1	1	0	0	1	100.00%
Somerset	1	1	0	0	1	100.00%
Talbot	0	0	0	0	0	N/A
Washington	5	5	0	0	5	100.00%
Wicomico	1	1	0	0	1	100.00%
Worcester	0	0	0	0	0	N/A
Total	100	91	0	9	99	90.91%

Statewide Unaffiliated Turnout

County	Registered	Voted Polls	Provisional	Absentee	Total Voted	% Voted
Allegany	5,347	2,794	78	158	3,030	56.83%
Anne Arundel	58,709	38,149	997	2,710	41,796	71.19%
Baltimore City	39,924	18,709	997	1,488	22,002	55.90%
Baltimore	67,979	40,915	991	2,460	44,376	65.19%
Calvert	9,735	8,199	171	585	8,864	79.58%
Caroline	2,841	1,634	48	108	1,790	63.01%
Carroll	15,943	10,883	145	622	11,348	71.69%
Cecil	11,381	6,813	125	393	7,331	64.53%
Charles	13,175	8,197	184	647	8,908	66.38%
Dorchester	2,232	1,287	43	92	1,422	63.71%
Frederick	34,591	17,050	366	1,836	18,832	75.77%
Garrett	1,799	919	18	102	1,039	56.73%
Harford	31,540	14,758	334	923	16,005	74.30%
Howard	33,436	22,804	484	1,999	25,287	75.63%
Kent	1,764	1,066	19	84	1,173	66.50%
Montgomery	112,387	70,999	1,937	7,162	79,098	70.40%
Prince George's	82,477	53,890	1,423	2,442	57,805	66.19%
Queen Anne's	4,116	2,770	113	245	3,128	76.00%
St. Mary's	10,011	8,139	186	515	8,811	88.04%
Somerset	1,549	907	30	63	1,000	64.56%
Talbot	3,806	2,359	19	377	2,755	76.39%
Washington	13,889	7,748	211	472	8,429	60.33%
Wicomico	8,396	5,032	148	430	5,610	67.87%
Worcester	5,452	3,359	96	361	3,776	66.55%
Total	531,472	328,552	8,295	20,436	356,772	67.89%

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Statewide Turnout

County	Dem	Rep	Other	Total Votes	Eligible Voters	Turnout
Allegany	20,232	1,036	182	1,056	22,468	42,480	52.88%
Anne Arundel	165,055	30,941	4,190	8,308	304,394	391,101	91.71%
Baltimore City	132,054	19,856	5,589	7,078	164,569	365,505	45.02%
Baltimore County	241,911	31,297	4,688	12,655	290,560	492,869	58.97%
Calvert	27,153	3,283	493	1,569	32,298	56,300	57.37%
Caroline	6,105	1,012	160	598	10,169	16,057	63.35%
Carroll	58,210	5,208	471	2,269	64,158	108,201	60.80%
Cecil	25,840	3,367	391	1,057	30,575	66,857	60.79%
Charles	36,666	5,127	756	1,459	47,911	86,669	62.57%
Dorchester	8,484	1,548	167	1,016	13,037	18,778	69.71%
Frederick	66,745	5,812	983	2,668	76,207	137,668	55.34%
Garrett	5,307	669	84	599	6,660	18,434	58.49%
Harford	79,749	11,106	1,006	3,221	95,133	148,053	63.82%
Howard	88,743	14,882	2,167	4,818	108,423	179,060	60.80%
Kent	6,101	1,027	94	915	8,337	12,462	66.79%

Present

Montgomery	240,120	35,790	8,827	30,791	284,804	573,431	51.09%
Prince George's	178,734	38,540	6,676	9,832	233,778	617,500	46.17%
Queen Anne's	16,049	3,703	930	946	30,090	39,706	97.43%
Saint Mary's	27,407	2,873	341	1,383	32,004	59,213	54.05%
Somerset	8,350	970	212	436	7,967	13,268	59.94%
Talbot	11,440	3,858	151	1,250	16,500	25,309	65.20%
Washington	36,730	2,598	938	1,686	40,975	83,278	49.20%
Wicomico	23,795	3,971	462	1,802	30,030	54,398	55.34%
Worcester	17,059	2,769	162	1,714	21,699	35,510	61.10%
Total Voter Turnout	1,638,716	218,834	37,399	87,901	1,873,541	3,466,397	54.02%

Democratic Party							
County	Polls	DV	Provi	Abs	Total Voters	Eligible Voters	Turnout
Allegany	7,855	431	91	458	8,380	16,808	51.89%
Anne Arundel	70,936	14,241	1,891	4,074	91,212	140,707	62.05%
Baltimore City	110,394	17,868	4,089	5,680	138,012	289,776	47.65%
Baltimore County	142,385	21,720	3,140	8,104	175,359	280,998	60.29%
Calvert	11,271	1,449	194	842	13,656	23,171	58.92%
Caroline	3,147	675	98	233	4,111	7,407	55.50%
Carroll	16,801	1,886	147	909	19,743	35,186	56.09%
Cecil	10,385	1,401	119	573	12,458	24,530	50.79%
Charles	33,703	5,080	694	939	39,143	60,767	64.43%
Dorchester	4,593	662	119	726	6,128	10,562	58.01%
Frederick	24,726	2,852	430	1,906	29,114	52,181	55.79%
Garrett	1,970	398	21	190	2,449	4,994	49.04%
Harford	32,330	4,911	434	1,954	39,629	62,100	63.80%
Howard	42,111	8,586	1,242	2,672	54,610	86,045	63.47%
Kent	2,983	808	48	391	4,127	8,170	50.52%
Montgomery	143,794	18,017	4,437	13,866	179,914	324,186	55.50%
Prince George's	149,056	33,906	6,780	7,994	198,737	400,582	49.70%
Queen Anne's	5,733	1,097	120	470	7,410	11,058	67.00%
Saint Mary's	11,397	1,293	130	704	13,451	24,888	54.01%
Somerset	3,210	462	156	293	4,075	7,322	55.62%
Talbot	4,580	1,410	78	940	6,460	10,199	63.33%
Washington	13,202	876	131	872	15,081	31,340	48.12%
Wicomico	10,588	1,886	271	1,031	13,716	25,368	54.07%
Worcester	7,346	1,218	70	823	9,455	15,715	60.17%
Total Turnout	663,713	149,980	24,374	59,970	1,873,533	1,867,370	54.04%

Republican Party							

County	Polls	BY	Prov	Abs	Total Votes	Eligible Voters	Turnout
Allegany	10,913	522	77	531	12,043	19,827	60.74%
Anne Arundel	87,932	11,911	1,308	2,965	92,914	130,970	69.49%
Baltimore City	11,160	986	359	706	13,211	32,027	41.25%
Baltimore County	79,144	7,257	1,037	3,365	84,901	126,936	66.93%
Calvert	12,227	1,412	204	592	14,435	22,464	64.26%
Caroline	3,883	704	56	139	4,884	7,491	65.48%
Carroll	32,702	2,915	232	1,108	36,957	54,327	68.03%
Cecil	11,885	1,091	135	376	13,827	22,068	56.69%
Charles	11,952	1,597	119	479	14,147	24,667	57.31%
Dorchester	4,079	694	46	231	4,918	6,982	70.46%
Frederick	32,587	2,418	359	1,028	36,390	57,958	62.79%
Garrett	9,814	917	47	321	8,766	11,379	58.75%
Harford	38,112	5,329	430	1,276	45,147	63,101	71.56%
Howard	39,810	4,979	473	1,256	38,917	56,017	67.15%
Kent	2,429	645	41	187	3,302	4,478	73.77%
Montgomery	87,489	8,139	1,179	4,119	87,886	129,263	66.09%
Prince George's	15,784	2,554	387	1,022	19,727	46,841	42.30%
Queen Anne's	8,441	1,366	148	379	10,323	13,992	73.78%
Saint Mary's	12,429	1,313	141	542	14,425	23,454	61.50%
Somerset	2,484	421	39	166	3,110	4,329	71.84%
Talbot	5,587	1,884	82	520	8,033	11,073	72.55%
Washington	19,582	1,018	139	832	21,570	37,027	58.25%
Wicomico	10,467	1,890	123	851	12,831	19,786	65.36%
Worcester	7,847	1,259	71	950	9,934	13,909	68.23%
Total Turnout	486,869	66,535	7,189	23,496	578,831	926,914	62.46%

Libertarian Party							
County	Polls	BY	Prov	Abs	Total Votes	Eligible Voters	Turnout
Allegany	34	3	2	1	40	119	33.61%
Anne Arundel	463	61	18	21	581	1,114	52.38%
Baltimore City	202	15	19	11	347	701	38.34%
Baltimore County	607	58	15	25	705	1,406	48.90%
Calvert	80	12	1	3	89	140	49.31%
Caroline	15	2	0	1	18	58	30.91%
Carroll	132	5	2	2	141	304	46.38%
Cecil	70	8	2	2	82	208	39.42%
Charles	48	14	0	4	65	167	38.92%
Dorchester	17	1	0	2	20	41	48.78%
Frederick	167	10	8	6	190	453	41.94%
Garrett	8	0	1	2	9	45	20.00%

Harford	228	28	7	9	359	912	42.64%
Howard	216	27	11	14	268	571	46.94%
Kent	12	0	1	0	19	35	54.29%
Montgomery	566	41	28	35	482	1,364	38.07%
Prince George's	174	15	12	8	359	732	28.56%
Queen Anne's	38	2	2	6	46	95	48.42%
Saint Mary's	74	11	4	4	80	191	48.69%
Somerset	7	1	0	0	9	26	30.77%
Talbot	29	2	0	2	38	79	41.77%
Washington	75	2	4	9	60	234	38.46%
Wicomico	62	11	3	2	66	191	45.03%
Worcester	35	4	0	2	41	105	39.05%
Total Turnout	3,149	337	136	167	3,782	8,984	42.10%

Green Party							
County	Polls	ED	Prov	Abs	Total Votes	Eligible Voters	Turnout
Allegany	30	1	1	4	36	130	27.69%
Anne Arundel	391	45	20	20	384	848	45.28%
Baltimore City	449	39	25	11	524	1,404	37.32%
Baltimore County	498	48	13	36	595	1,356	44.10%
Calvert	32	5	0	2	39	119	32.77%
Caroline	10	1	0	0	11	36	30.56%
Carroll	79	2	0	2	83	256	32.55%
Cecil	36	5	1	3	44	143	30.77%
Charles	33	3	1	4	41	131	31.30%
Dorchester	11	1	1	0	13	29	44.83%
Frederick	142	5	3	3	153	358	42.82%
Garrett	4	1	1	0	6	39	15.38%
Harford	87	11	4	3	105	274	38.32%
Howard	143	34	10	11	197	446	42.50%
Kent	15	1	0	2	18	42	42.86%
Montgomery	429	62	26	26	544	1,432	37.99%
Prince George's	195	22	5	10	232	710	32.68%
Queen Anne's	36	2	0	0	37	94	42.19%
Saint Mary's	52	2	0	1	55	150	36.67%
Somerset	4	0	0	2	6	21	28.57%
Talbot	16	2	0	3	21	51	41.18%
Washington	69	6	3	2	80	219	36.77%
Wicomico	29	5	2	3	39	113	34.51%
Worcester	22	4	0	1	27	66	36.71%
Total Turnout	2,874	294	116	169	3,223	8,392	38.41%

Constitution Party							
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Allegany	7	0	0	0	7	13	[illegible]
Anne Arundel	41	13	0	3	57	78	[illegible]
Baltimore City	6	1	0	2	9	29	[illegible]
Baltimore County	38	4	1	1	42	80	[illegible]
Calvert	5	1	0	2	8	11	[illegible]
Caroline	3	0	0	0	3	5	[illegible]
Carroll	34	1	0	2	37	51	[illegible]
Cecil	11	2	1	0	14	25	[illegible]
Charles	11	1	1	1	14	19	[illegible]
Dorchester	1	0	0	0	1	2	[illegible]
Frederick	18	2	2	0	30	32	[illegible]
Garrett	2	0	0	0	2	3	[illegible]
Harford	23	1	1	0	26	37	[illegible]
Howard	20	6	0	1	27	41	[illegible]
Kent	2	0	0	0	2	3	[illegible]
Montgomery	25	4	1	4	34	59	[illegible]
Prince George's	19	3	0	1	23	55	[illegible]
Queen Anne's	5	0	0	2	7	8	[illegible]
Saint Mary's	8	0	0	0	8	14	[illegible]
Somerset	1	0	0	0	1	3	[illegible]
Talbot	4	2	0	0	6	7	[illegible]
Washington	9	1	0	0	10	20	[illegible]
Wicomico	4	1	0	0	5	9	[illegible]
Worcester	2	0	0	0	2	5	[illegible]
Total Turnout	[illegible]	43	7	19	[illegible]	[illegible]	[illegible]

Unaffiliated							
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Allegany	1,431	91	21	47	1,590	5,305	29.41%
Anne Arundel	23,787	3,667	911	1,880	30,245	82,369	[illegible]
Baltimore City	9,584	879	578	455	11,505	40,231	28.60%
Baltimore County	22,391	1,642	677	682	26,872	64,709	[illegible]
Calvert	3,345	348	90	129	3,912	9,860	[illegible]
Caroline	884	134	36	32	1,076	2,949	[illegible]
Carroll	6,212	434	85	174	6,905	16,309	42.34%
Cecil	3,340	360	41	84	3,725	11,218	33.21%
Charles	3,980	455	75	127	4,648	13,609	34.15%

Dorchester	650	74	26	66	840	2,186	38.44%
Frederick	9,082	719	171	334	10,298	26,837	38.85%
Garrett	430	39	14	15	498	1,786	27.88%
Harford	8,755	1,074	167	245	10,237	22,310	45.89%
Howard	12,663	1,778	408	810	15,410	34,189	45.11%
Kent	598	148	8	31	783	1,621	48.30%
Montgomery	37,882	3,482	1,342	2,910	46,616	122,587	37.13%
Prince George's	9,034	1,276	592	472	11,364	43,081	26.30%
Queen Anne's	1,708	240	62	66	2,080	4,250	48.93%
Saint Mary's	3,239	278	64	126	3,705	10,248	36.16%
Somerset	604	74	21	11	810	1,887	39.89%
Talbot	1,301	321	17	117	1,756	3,815	46.04%
Washington	3,772	191	41	117	4,121	14,047	29.72%
Wicomico	2,414	356	57	105	2,932	8,178	35.86%
Worcester	1,003	291	16	117	2,280	5,373	43.41%
Total Turnout	188,886	18,314	5,317	9,374	288,783	826,274	37.59%

Other Parties							
County	Polls	DP	Peer	Abs	Total Votes	Eligible Voters	Turnout
Allegany	192	19	0	15	226	449	50.11%
Anne Arundel	45	15	18	9	91	139	58.27%
Baltimore City	340	91	21	27	449	1,340	33.43%
Baltimore County	2,670	330	53	184	3,237	5,622	57.58%
Calvert	222	37	4	19	282	526	53.61%
Caroline	51	6	0	3	60	120	50.00%
Carroll	250	13	6	22	290	799	36.30%
Cecil	348	55	2	20	425	880	48.42%
Charles	238	21	1	5	353	579	43.70%
Dorchester	70	16	1	1	88	150	58.67%
Frederick	25	8	9	2	44	78	56.41%
Garrett	81	8	0	8	97	186	52.15%
Harford	316	54	12	39	421	710	59.30%
Howard	791	142	18	53	1,004	1,810	55.47%
Kent	82	19	1	4	86	139	63.70%
Montgomery	153	21	15	20	209	541	38.63%
Prince George's	4,488	782	114	135	5,494	22,719	24.18%
Queen Anne's	101	15	1	1	118	207	57.48%
Saint Mary's	238	21	2	6	267	536	50.75%
Somerset	40	12	2	3	57	120	47.50%
Talbot	135	36	2	18	191	316	60.63%
Washington	32	3	1	4	40	89	44.94%

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Worcester	198	38	3	21	260	441	58.96%
Total Turnout	11,338	1,784	[illegible]	[illegible]	14,917	39,139	[illegible]

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Statewide Turnout

County	Polls	EV	Abs	Prov	Total Voters	Eligible Voters	Turnout
Allegany	25,423	2,685	1,468	571	30,145	42,129	71.58%
Anne Arundel	203,418	38,136	13,116	7,410	262,081	348,778	75.14%
Baltimore City	187,721	45,510	11,302	12,886	257,369	392,606	65.56%
Baltimore County	302,292	58,256	19,932	8,948	388,408	515,420	75.36%
Calvert	36,453	7,039	2,626	893	46,913	58,884	79.69%
Caroline	10,257	2,385	591	321	13,474	18,166	74.18%
Carroll	72,820	10,408	3,912	1,149	88,089	110,400	79.79%
Cecil	34,419	5,890	1,851	809	42,769	82,524	88.40%
Charles	58,880	11,888	3,314	1,851	75,848	97,887	77.84%
Dorchester	11,878	2,485	949	259	15,551	20,166	77.11%
Frederick	88,185	13,882	5,539	2,103	118,088	148,190	79.70%
Garrett	10,882	1,550	875	176	13,383	18,729	70.82%
Harford	103,082	18,390	5,219	2,206	128,878	150,971	79.31%
Howard	111,839	30,481	8,723	3,346	154,389	188,755	81.78%
Kent	8,840	2,385	841	158	10,034	12,584	79.59%
Montgomery	329,726	77,929	39,714	13,506	460,885	618,018	74.62%
Prince George's	264,868	66,029	20,044	18,044	382,718	568,917	68.07%
Queen Anne's	19,332	4,012	1,279	478	25,101	32,332	77.64%

Present

Saint Mary's	37,363	7,066	2,737	1,093	48,259	63,839	75.54%
Somerset	7,881	1,855	510	861	10,487	13,715	76.48%
Talbot	12,845	5,948	1,520	302	20,615	25,295	81.50%
Washington	51,898	7,349	3,033	1,032	63,310	87,298	72.52%
Wicomico	32,109	8,410	2,829	1,361	42,714	56,429	75.70%
Worcester	21,840	2,824	2,425	563	27,652	35,080	78.84%
Totals	2,088,531	430,547	155,181	79,805	2,754,062	3,694,860	74.00%

Democratic Party

County	Polls	EV	Abs	Prov	Total Votes	Eligible Voters	Turnout
Allegany	9,115	1,128	558	226	11,027	15,557	70.89%
Anne Arundel	86,006	20,053	6,037	3,427	115,523	148,232	77.41%
Baltimore City	151,500	40,348	8,880	10,380	211,017	309,078	68.27%
Baltimore County	172,358	40,534	12,144	6,225	231,251	297,941	77.62%
Calvert	13,984	3,274	1,084	343	18,645	23,349	79.86%
Caroline	3,935	1,039	232	144	5,350	7,183	74.48%
Carroll	20,734	3,897	1,368	395	26,164	32,778	79.82%
Cecil	13,030	2,411	654	341	16,516	24,197	68.26%
Charles	33,854	8,958	1,917	1,185	45,312	55,890	81.36%
Dorchester	5,908	1,417	587	154	8,067	10,414	77.46%
Frederick	34,343	8,898	2,490	914	44,443	54,564	81.46%
Garrett	2,484	434	244	54	3,216	4,724	68.08%
Harford	39,869	7,429	2,326	998	50,621	63,549	79.66%
Howard	51,707	18,149	4,800	1,788	76,224	90,072	84.63%
Kent	3,348	1,244	318	82	4,990	6,095	80.23%
Montgomery	184,484	52,920	24,097	8,162	269,645	345,449	78.08%
Prince George's	229,581	62,113	16,727	13,573	321,994	443,643	72.58%
Queen Anne's	6,570	1,800	485	166	8,821	11,386	77.81%
Saint Mary's	14,558	2,867	1,204	482	19,311	25,395	76.34%
Somerset	3,972	982	269	512	5,735	7,249	79.11%
Talbot	4,861	2,560	573	133	8,127	9,868	82.11%
Washington	18,498	3,058	1,189	434	23,177	31,750	73.00%
Wicomico	14,084	3,241	1,483	709	19,517	25,474	76.62%
Worcester	9,035	1,214	1,109	399	11,823	14,987	77.50%
Totals	1,127,584	287,034	90,643	60,953	1,566,214	2,059,544	76.06%

Republican Party

County	Polls	EV	Abs	Prov	Total Votes	Eligible Voters	Turnout
Allegany	13,130	1,295	755	308	15,585	20,008	78.85%
Anne Arundel	78,077	12,179	4,728	2,180	98,165	125,388	78.29%
Baltimore City	15,080	1,964	1,029	836	18,891	33,005	57.24%
Baltimore County	85,830	10,084	5,139	1,877	102,930	132,720	77.55%
Calvert	15,189	2,740	1,042	269	19,260	23,448	82.18%
Caroline	4,711	1,067	238	107	6,103	7,656	79.80%
Carroll	39,848	5,269	1,926	607	47,547	56,870	83.61%
Cecil	14,722	2,568	707	202	18,189	24,372	74.63%
Charles	16,406	2,104	1,039	322	19,843	25,259	78.31%
Dorchester	4,706	653	273	59	5,871	7,131	82.33%
Frederick	42,736	4,782	2,370	632	50,522	61,079	82.72%
Garrett	7,137	997	581	69	8,784	11,626	75.56%
Harford	46,854	6,920	2,113	720	56,107	67,467	83.16%
Howard	36,714	7,181	2,301	698	46,994	56,330	83.41%
Kent	2,855	663	232	42	3,792	4,572	82.94%
Montgomery	73,411	11,285	7,782	1,821	94,299	125,186	75.41%
Prince George's	33,499	2,539	2,002	955	28,994	47,472	61.01%
Queen Anne's	9,720	1,936	602	202	12,460	15,284	81.52%

Saint Mary's	15,670	3,071	1,087	334	20,162	25,721	78.39%
Somerset	2,965	936	196	56	3,653	4,950	78.87%
Talbot	5,857	2,041	669	96	8,364	10,679	86.39%
Washington	26,084	3,352	1,414	316	30,376	38,581	78.92%
Wicomico	13,141	2,362	676	244	16,840	20,966	81.50%
Worcester	9,308	1,203	1,013	186	11,867	14,423	81.86%
Totals	683,547	86,391	40,276	13,191	749,387	938,858	77.79%

Libertarian Party

County	Polls	EV	Abs	Prov	Total Voters	Eligible Voters	Turnout
Allegany	77	8	1	3	89	148	62.34%
Anne Arundel	744	100	37	62	936	1,388	67.41%
Baltimore City	416	40	14	30	514	917	56.05%
Baltimore County	960	130	61	63	1,212	1,806	67.11%
Calvert	89	16	11	7	133	193	64.08%
Caroline	28	3	1	1	33	59	55.93%
Carroll	227	29	19	0	281	399	70.43%
Cecil	116	9	7	4	136	244	55.74%
Charles	113	13	8	4	139	234	59.40%
Dorchester	32	1	0	0	33	47	70.21%
Frederick	350	36	24	22	429	577	75.31%
Garrett	23	1	1	1	26	52	50.00%
Harford	284	30	23	13	409	540	75.72%
Howard	360	37	28	11	494	696	68.34%
Kent	35	6	3	0	34	44	77.27%
Montgomery	695	116	72	43	1,068	1,746	61.20%
Prince George's	409	43	28	34	513	940	54.57%
Queen Anne's	94	6	1	4	77	111	69.37%
Saint Mary's	133	18	8	6	165	246	67.38%
Somerset	9	2	2	2	15	30	50.00%
Talbot	44	6	4	3	57	91	62.64%
Washington	173	17	13	8	211	333	63.37%
Wicomico	93	14	10	7	114	169	68.38%
Worcester	58	6	6	6	74	136	58.73%
Totals	5,757	713	380	339	7,219	11,256	64.15%

Green Party

County	Polls	EV	Abs	Prov	Total Voters	Eligible Voters	Turnout
Allegany	53	6	6	3	68	121	56.20%
Anne Arundel	420	59	35	22	534	574	91.10%
Baltimore City	567	62	39	33	741	1,401	52.89%
Baltimore County	660	79	45	36	820	1,358	61.86%
Calvert	62	10	5	2	79	138	57.25%
Caroline	13	4	1	2	20	36	55.56%
Carroll	132	16	11	11	172	270	63.70%
Cecil	51	5	5	0	61	140	43.57%
Charles	61	9	13	5	75	140	53.57%
Dorchester	9	2	1	0	12	25	48.00%
Frederick	210	28	13	10	270	401	67.33%
Garrett	10	3	1	1	15	39	38.47%
Harford	101	17	9	9	186	315	59.05%
Howard	357	39	23	9	321	471	68.15%

Kent	20	2	0	0	22	35	62.86%
Montgomery	612	127	85	52	874	1,559	57.80%
Prince George's	334	47	22	28	419	765	54.77%
Queen Anne's	52	3	1	2	58	94	58.38%
Saint Mary's	81	8	5	4	98	144	68.06%
Somerset	3	0	4	2	9	19	47.37%
Talbot	21	5	5	1	32	48	66.67%
Washington	101	19	8	1	129	239	53.56%
Wicomico	41	7	7	9	64	117	54.70%
Worcester	29	4	1	1	35	71	49.30%
Totals	3,044	574	341	241	4,100	6,716	58.51%

Americans Elect Party

County	Polls	EV	Abs	Prov	Total Voters	Eligible Voters	Turnout
Allegany	1	0	0	0	1	1	100.00%
Anne Arundel	4	0	0	0	4	8	50.00%
Baltimore City	10	3	1	1	15	22	68.18%
Baltimore County	4	0	0	0	4	10	40.00%
Calvert	0	1	0	0	1	1	100.00%
Caroline	0	0	0	0	0	0	0.00%
Carroll	1	0	1	0	2	6	33.33%
Cecil	2	0	1	1	4	3	133.33%
Charles	0	0	0	2	2	0	0.00%
Dorchester	1	0	0	0	1	1	100.00%
Frederick	3	1	0	0	4	4	100.00%
Garrett	0	0	0	0	0	0	0.00%
Harford	2	0	0	0	2	3	66.67%
Howard	5	0	0	0	5	7	71.43%
Kent	0	0	0	0	0	0	0.00%
Montgomery	9	0	4	0	13	16	81.25%
Prince George's	8	1	0	2	12	26	46.15%
Queen Anne's	3	0	0	0	3	3	100.00%
Saint Mary's	2	0	2	3	7	5	140.00%
Somerset	1	0	0	0	1	2	50.00%
Talbot	0	0	0	0	0	0	0.00%
Washington	5	0	0	0	5	7	71.43%
Wicomico	3	0	0	0	3	6	50.00%
Worcester	1	0	0	0	1	1	100.00%
Totals	66	6	9	9	90	131	68.70%

Unaffiliated

County	Polls	EV	Abs	Prov	Total Voters	Eligible Voters	Turnout
Allegany	2,830	236	104	127	3,298	5,891	55.79%
Anne Arundel	37,021	6,731	2,270	1,706	46,730	71,833	65.33%
Baltimore City	19,021	3,050	1,159	1,094	25,324	46,849	54.29%
Baltimore County	36,460	4,871	1,712	1,646	47,709	75,780	62.97%
Calvert	5,877	595	362	229	7,463	11,301	66.04%
Caroline	1,464	249	90	92	1,894	3,158	59.97%
Carroll	11,213	1,320	499	248	13,219	19,080	69.24%
Cecil	6,169	628	276	157	7,375	13,824	57.51%
Charles	8,165	1,156	449	304	10,071	15,712	64.10%
Dorchester	1,143	186	82	44	1,455	2,424	60.44%

Frederick	19,484	2,310	1,057	911	33,342	31,441	71.09%
Garrett	800	195	82	30	1,087	2,084	52.19%
Harford	15,436	2,179	630	491	18,578	28,856	66.19%
Howard	21,800	4,719	959	710	29,187	38,779	72.60%
Kent	830	230	79	33	1,178	1,708	68.97%
Montgomery	88,576	13,266	6,357	3,179	80,368	136,040	66.40%
Prince George's	24,805	4,115	1,722	2,095	32,790	56,108	58.40%
Queen Anne's	2,822	442	186	102	3,552	5,280	67.08%
Saint Mary's	6,349	1,015	367	254	7,915	12,049	65.68%
Somerset	781	144	30	67	1,002	1,884	60.33%
Talbot	1,980	676	234	66	2,835	4,012	70.61%
Washington	7,801	971	314	267	9,475	16,150	58.66%
Wicomico	4,440	662	299	270	5,710	9,310	61.33%
Worcester	3,145	313	203	100	3,921	6,080	62.80%
Totals	311,971	49,773	19,330	14,190	380,270	814,987	64.39%

Other Parties

County	Polls	EV	Abs	Prov	Total Voters	Eligible Voters	Turnout
Allegany	219	35	32	4	370	410	68.05%
Anne Arundel	144	18	10	34	108	382	74.81%
Baltimore City	620	114	71	64	867	1,034	68.47%
Baltimore County	2,883	572	630	108	4,471	5,848	76.48%
Calvert	273	63	44	13	393	536	73.46%
Caroline	76	14	9	5	104	141	73.76%
Carroll	467	75	103	9	704	985	71.47%
Cecil	360	72	32	4	488	744	65.59%
Charles	302	50	30	29	404	572	70.63%
Dorchester	76	16	6	2	102	136	80.95%
Frederick	59	7	4	14	84	94	89.36%
Garrett	66	30	16	1	135	206	66.53%
Harford	585	106	210	34	835	1,139	81.47%
Howard	1,089	319	704	53	2,164	2,369	91.09%
Kent	84	31	12	1	108	140	77.14%
Montgomery	819	305	1,310	149	2,460	3,072	81.05%
Prince George's	6,206	1,071	443	329	8,049	19,885	40.93%
Queen Anne's	121	23	4	2	150	209	71.77%
Saint Mary's	270	37	34	10	351	498	70.48%
Somerset	50	19	6	2	77	121	63.64%
Talbot	133	60	26	3	210	267	78.65%
Washington	109	35	66	6	242	262	66.87%
Wicomico	317	79	52	13	461	676	68.20%
Worcester	218	34	34	5	291	382	76.18%
Totals	15,622	3,069	4,104	909	33,772	40,268	59.03%

Totals	POLLS	EV	ABS	PROV	ELIGIBLE_VOTERS	Percent Turnout
Allegany	18,480	1,504	687	222	42,560	49.1%
Anne Arundel	133,124	38,654	5,784	3,913	349,313	52.0%
Baltimore City	107,961	25,921	3,829	4,650	373,171	38.1%
Baltimore County	203,005	51,812	7,089	4,419	521,130	51.1%
Calvert	27,092	4,751	942	461	59,076	55.4%
Caroline	7,396	1,606	183	121	18,353	50.7%
Carroll	54,680	8,016	1,534	587	112,946	57.4%
Cecil	22,033	4,123	570	241	61,091	43.5%
Charles	38,989	6,880	1,089	877	100,449	47.6%
Dorchester	8,459	1,608	620	144	20,466	52.9%
Frederick	66,795	10,710	2,353	989	150,895	53.6%
Garrett	7,569	1,357	405	83	19,292	48.8%
Harford	70,888	18,007	1,625	1,470	164,780	55.8%
Howard	80,528	21,431	2,481	1,718	195,440	54.3%
Kent	5,532	1,969	318	37	12,724	61.7%
Montgomery	211,729	35,443	13,730	6,554	634,663	42.1%
Prince George's	162,406	46,227	5,891	6,676	544,677	40.6%
Queen Anne's	13,759	5,156	463	166	33,175	58.9%
Saint Mary's	26,991	4,471	976	412	64,510	50.9%
Somerset	5,111	1,263	254	172	12,999	52.3%
Talbot	9,697	4,869	595	193	25,663	59.8%
Washington	34,015	3,504	1,246	432	90,097	43.5%
Wicomico	19,871	4,944	1,033	336	56,696	46.2%
Worcester	14,820	3,439	954	190	35,699	54.4%
Total	1,350,930	307,665	54,651	35,063	3,701,665	47.2%

Republican	Polls	EV	ABS	PROV	ELIGIBLE_VOTERS	Percent Turnout
Allegany	10,306	771	361	99	20,200	57.1%
Anne Arundel	57,411	15,702	2,012	1,308	123,998	61.6%
Baltimore City	9,457	1,354	392	384	30,156	38.4%
Baltimore County	64,647	13,327	2,217	1,142	131,289	61.9%
Calvert	12,476	2,141	425	198	23,930	63.7%
Caroline	3,855	821	87	55	7,740	62.2%
Carroll	33,027	4,888	881	322	58,989	66.3%
Cecil	11,056	2,089	260	110	24,692	54.7%
Charles	11,488	1,687	376	183	24,352	56.4%
Dorchester	3,990	698	159	27	7,237	67.3%
Frederick	32,190	4,436	1,122	409	81,145	62.4%
Garrett	5,352	968	269	49	12,018	55.2%
Harford	35,582	8,551	813	648	88,958	66.1%
Howard	27,657	6,183	833	448	55,440	63.3%
Kent	2,292	760	125	14	4,550	70.1%
Montgomery	48,623	6,202	3,333	1,263	121,520	48.9%
Prince George's	14,013	2,779	807	455	41,780	43.2%

Queen Anne's	7,531	2,817	218	92	15,877	67.1%
Saint Mary's	12,666	2,092	401	145	25,797	59.3%
Somerset	2,411	553	100	42	4,731	65.7%
Talbot	4,826	2,539	305	98	11,156	69.6%
Washington	18,489	1,875	629	200	39,134	54.2%
Wicomico	9,261	2,153	412	101	20,504	58.2%
Worcester	7,003	1,653	426	87	14,391	63.7%
Total	445,609	87,039	16,963	7,879	949,564	58.7%

Democrat	Polls	EV	ABS	PROV	ELIGIBLE_VOTERS	Percent Turnout
Allegany	6,135	597	278	69	15,140	46.8%
Anne Arundel	52,936	17,889	2,987	1,778	147,091	51.4%
Baltimore City	88,452	23,168	3,155	3,733	293,242	40.4%
Baltimore County	111,396	33,818	4,127	2,531	297,506	51.0%
Calvert	10,167	2,051	360	160	23,222	54.9%
Caroline	2,524	628	89	31	6,944	47.1%
Carroll	13,673	2,314	475	143	31,084	53.4%
Cecil	7,392	1,532	224	74	22,917	40.2%
Charles	22,539	4,534	582	568	58,745	48.0%
Dorchester	3,650	792	431	94	10,306	48.2%
Frederick	22,864	4,765	940	332	54,421	53.1%
Garrett	1,600	307	101	17	4,817	43.9%
Harford	24,479	7,289	625	485	62,814	52.3%
Howard	37,784	12,279	1,249	853	93,408	55.8%
Kent	2,523	1,010	153	18	6,023	61.5%
Montgomery	125,358	24,514	8,162	3,938	357,137	45.4%
Prince George's	133,677	40,800	4,477	5,425	427,946	43.1%
Queen Anne's	4,209	1,772	189	34	10,964	56.6%
Saint Mary's	10,097	1,836	467	157	25,034	50.2%
Somerset	2,199	594	138	111	6,409	47.5%
Talbot	3,412	1,781	221	56	9,647	56.7%
Washington	10,952	1,281	494	131	31,917	40.3%
Wicomico	8,035	2,256	512	157	25,314	43.3%
Worcester	5,671	1,381	430	67	14,433	52.3%
Total	711,724	189,188	30,866	20,962	2,036,281	46.8%

Libertarian	Polls	EV	ABS	PROV	ELIGIBLE_VOTERS	Percent Turnout
Allegany	72	7	2	2	203	40.9%
Anne Arundel	567	85	19	32	1,748	40.2%
Baltimore City	279	38	8	13	1,094	30.9%
Baltimore County	805	127	20	20	2,321	41.9%
Calvert	90	11	5	2	271	39.9%
Caroline	26	2	1	1	88	34.1%
Carroll	239	23	5	4	596	45.5%

Cecil	75	10	2	1	300	29.3%
Charles	91	11	7	7	329	35.3%
Dorchester	23	1	1	2	65	41.5%
Frederick	271	24	9	10	781	40.2%
Garrett	18	2	1	1	74	29.7%
Harford	314	49	6	17	903	42.7%
Howard	320	41	16	12	907	42.9%
Kent	18	5	1	2	54	48.1%
Montgomery	497	51	36	36	2,216	28.0%
Prince George's	222	27	11	21	1,059	26.5%
Queen Anne's	52	13	1	3	153	45.1%
Saint Mary's	113	15	3	2	316	42.1%
Somerset	14	3	0	0	31	54.8%
Talbot	42	8	1	1	114	45.6%
Washington	107	9	5	5	425	29.6%
Wicomico	67	14	4	7	268	34.3%
Worcester	50	13	4	0	161	41.6%
Total	4,372	589	168	201	14,477	36.8%

Green	Polls	EV	ABS	PROV	ELIGIBLE_VOTERS	Percent Turnout
Allegany	21	1	3	1	116	22.4%
Anne Arundel	215	41	8	12	825	33.5%
Baltimore City	305	41	7	18	1,215	30.5%
Baltimore County	375	54	15	12	1,283	35.3%
Calvert	46	3	3	1	129	41.1%
Caroline	5	1	0	1	31	22.6%
Carroll	81	7	1	0	266	33.5%
Cecil	14	3	1	0	129	14.0%
Charles	30	2	3	1	122	29.5%
Dorchester	6	2	0	1	29	31.0%
Frederick	147	13	5	5	401	42.4%
Garrett	5	1	0	1	36	19.4%
Harford	77	16	3	6	321	31.8%
Howard	137	26	8	4	478	36.6%
Kent	8	0	0	0	29	27.6%
Montgomery	387	59	41	18	1,602	31.5%
Prince George's	173	26	8	10	740	29.1%
Queen Anne's	10	2	1	0	54	24.1%
Saint Mary's	35	4	2	3	128	34.4%
Somerset	1	2	0	1	15	26.7%
Talbot	8	3	1	1	47	27.7%
Washington	57	3	4	1	240	27.1%
Wicomico	15	2	2	3	118	18.6%
Worcester	14	7	0	0	75	28.0%
Total	2,172	319	116	100	8,445	32.1%

Other	Polls	EV	ABS	PROV	ELIGIBLE_VOTERS	Percent Turnout
Allegany	164	12	12	4	378	50.8%
Anne Arundel	91	32	8	12	320	44.7%
Baltimore City	285	59	24	18	1,366	28.3%
Baltimore County	1,890	543	188	38	4,845	54.9%
Calvert	189	44	16	4	465	54.4%
Caroline	65	12	1	0	148	52.7%
Carroll	294	61	32	6	882	44.6%
Cecil	227	53	9	4	665	44.1%
Charles	200	26	8	5	541	44.2%
Dorchester	51	9	2	0	118	52.5%
Frederick	92	6	18	1	200	58.5%
Garrett	65	13	6	1	187	45.5%
Harford	438	132	43	18	1,227	51.4%
Howard	735	212	76	29	2,213	47.5%
Kent	55	14	5	0	129	57.4%
Montgomery	914	151	358	39	3,840	38.1%
Prince George's	2,779	614	98	56	14,752	24.0%
Queen Anne's	83	24	5	0	199	56.3%
Saint Mary's	185	24	7	4	449	49.0%
Somerset	28	15	2	0	101	44.6%
Talbot	68	37	4	2	221	50.2%
Washington	119	22	20	2	330	49.4%
Wicomico	164	42	15	2	534	41.8%
Worcester	148	43	9	3	360	56.4%
Total	9,329	2,200	966	248	34,470	37.0%

Unaffiliated	Polls	EV	ABS	PROV	ELIGIBLE_VOTERS	Percent Turnout
Allegany	1,782	116	31	47	6,523	30.3%
Anne Arundel	21,904	4,905	750	771	75,331	37.6%
Baltimore City	9,183	1,261	243	484	46,098	24.2%
Baltimore County	23,892	3,943	522	676	83,878	34.6%
Calvert	4,124	501	133	96	11,959	40.6%
Caroline	921	142	5	33	3,402	32.4%
Carroll	7,366	723	140	112	21,149	39.4%
Cecil	3,269	436	74	52	13,288	28.8%
Charles	4,641	620	113	113	16,360	33.5%
Dorchester	739	106	27	20	2,711	32.9%
Frederick	11,231	1,466	259	232	33,947	38.8%
Garrett	529	66	28	14	2,360	27.0%
Harford	9,998	1,970	135	296	30,557	40.6%
Howard	13,895	2,690	299	372	42,994	40.1%
Kent	636	180	34	3	1,939	44.0%

Montgomery	35,950	4,466	1,800	1,260	148,348	29.3%
Prince George's	11,542	1,981	490	709	58,394	25.2%
Queen Anne's	1,874	528	49	37	5,928	42.0%
Saint Mary's	3,895	500	96	101	12,786	35.9%
Somerset	458	96	14	18	1,712	34.2%
Talbot	1,341	501	63	35	4,478	43.3%
Washington	4,291	314	94	93	18,051	26.5%
Wicomico	2,329	477	88	66	9,958	29.7%
Worcester	1,934	342	85	33	6,279	38.1%
Total	177,724	28,330	5,572	5,673	658,428	33.0%

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

O. JOHN BENISEK, *et al.*,

Plaintiffs,

v.

LINDA H. LAMONE., *et al.*,

Defendants.

Case No. 13-cv-3233

DECLARATION OF MARY CRAMER WAGNER

I, Mary Cramer Wagner, under penalty of perjury, declare and state:

1. I, Mary Cramer Wagner, am over the age of eighteen and am competent to testify to the matters stated below.

2. I am the Director of Voter Registration and Petitions Division with the Maryland State Board of Elections. I have held this position for 16 years.

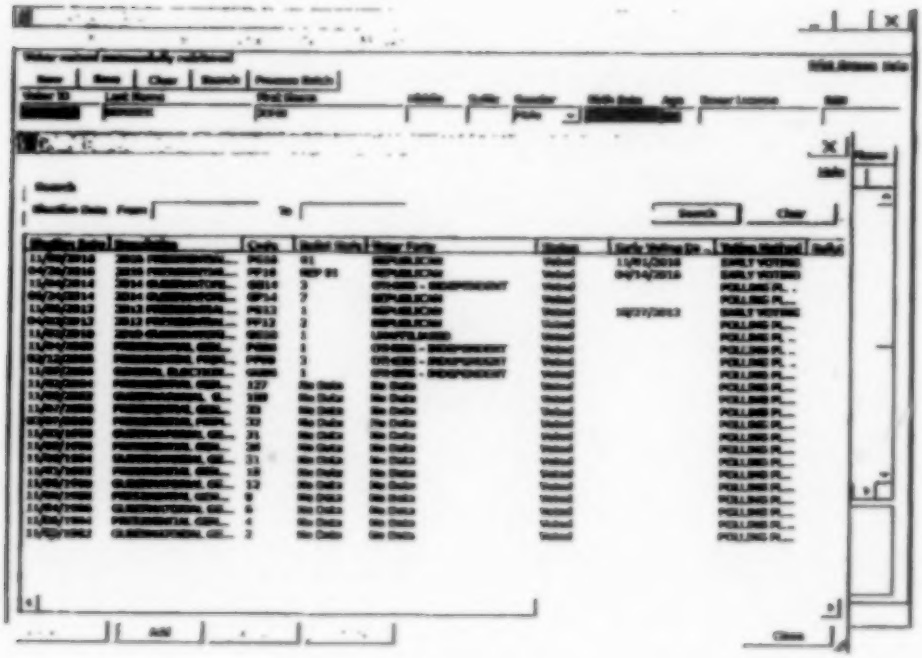
3. Attached as Exhibit A to my declaration is the voting record for O. John Benisek who resides at 11237 Kemps Mill Road in Williamsport, MD 21795.

4. I retrieved the document attached as Exhibit A on June 29, 2017, from State Board of Elections records that are kept in the normal course of business.

5. This document indicates that O. John Benisek was an unaffiliated voter in Maryland's 2010 general gubernatorial election, and that he was registered as a Republican in Maryland's 2012 presidential primary and general elections.

6/30/17
Date

MC Wagner
Mary Cramer Wagner



Official
Item Copy Certified By:
MCWagner 6/30/17
Maryland State Board of Elections

Exhibit A

Declaration of Dr. Michael McDonald

Summary

I previously offered an initial expert report and reply expert report in this case. These reports are Exhibits Q and BBB to the Plaintiffs' Motion for Preliminary Injunction, and to Advance and Consolidate the Trial on the Merits or, in the alternative, for Summary Judgment. I make this declaration in support of the same motion.

In this declaration, I analyze Maryland congressional redistricting plans and associated statistics present in redistricting software known as Maptitude that were produced to Plaintiffs by the office of Maryland Senate President Thomas V. "Mike" Miller, Jr. I understand that these files resided on a laptop that was used by Senate President Miller's staffer, Yaakov "Jake" Weissmann for analyzing and drawing congressional maps during the 2011 redistricting process. The characteristics of these redistricting plans and the timing of when external plans were loaded into the redistricting software, or when a user drew plans with it, provide evidence of what was known to Senate President Miller and his staff at particular stages of Maryland's 2011 congressional redistricting process.

Nearly all of the plans present on Senate President Miller's Maptitude software appear to be entire, well-formed plans created by external entities. These Maptitude data files produced by the office of Senate President Miller provide insights to Maryland's redistricting process.

- Senate President Miller and his staff had election data that permitted his office to evaluate the Democratic performance of redistricting plans on the Maptitude software. The Maptitude software also had partisan registration and past turnout data.

- The first three plans loaded into the Maptitude software had a highly Republican Sixth Congressional District that largely followed the pre-redistricting, benchmark district. President Miller and his staff were thus reasonably aware that the Sixth Congresaional District could be drawn similar to its prior configuration.

- Two plan proposals were loaded into President Miller's Maptitude software on October 3, 2011—the day before the Governor Redistricting Advisory Commission (GRAC) released its proposed congressional map. One option, shown at Figure 4, follows more closely the Maryland-Pennsylvania border, before curving to the south along its eastern boundary. Another option, shown at Figure 5, appears to be the basis for the adopted Sixth Congressional District, in that it largely follows the Maryland-Virginia border along the Potomac River. The first option has a democratic performance of 50.50%, and the second option has a performance of 51.36%. The second option, with the higher democratic performance, was chosen as worthy of further plan development.

- It appears that Senate President Miller's staffer, Mr. Weissmann, made relatively minor alterations to the first of these proposals to arrive at the GRAC's map. These alterations increased the democratic performance of the Sixth Congressional District.

- Governor O'Malley's congressional plan released on October 13, 2011 is identical to the plan passed by the legislature and signed into law. The democratic performance of the Sixth Congressional District in this plan is 52.61%, increasing its Democratic performance yet further.

In summary, it is my opinion this analysis reveals that whoever was producing maps for Maryland Democrats relied upon election data, including democratic performance metrics, to create a Sixth Congressional District with the intention to disfavor Republicans residing within the district. The goal was to create a Democratic district, not a competitive district, as configurations that would have produced a competitive 50% democratic performant district were not explored further.

Data Analyzed in this Declaration

Plaintiffs' counsel provided me with data files that I have been represented to me to be a Maptitude database of redistricting information originating from Maryland Senate President Miller's office. Forensic analysis of these data reveals that this database contains at least the following information:

- Census Bureau population data of census blocks from the PL94-171 data release, commonly used for redistricting purposes.

- A file called "MD_BLOCK_DEMPERF_2012.txt"which contains a variable called "DEMPERFIDX", which appears to measure the Democratic performance of census blocks using an unknown composite of elections. When census blocks are assigned to districts, the overall Democratic performance of districts can be measured using these data.

- Fourteen distinct congressional redistricting plans, and backup files of these same plans. These plans have associated names and dates suggesting the origin of a plan and the date when the plan was loaded into President Miller's Maptitude system.

In addition to these Maptitude data files, Plaintiffs' counsel provided me with map images of plans that were represented to me as originating from President Miller's office. The plans represented by these map images can be corresponded with plans present in the Maptitude system. Sometimes the map images are given different names than plans as they are named within the Maptitude system.

These plans provide evidence of the information that Senate President Miller's staff was aware of during Maryland's redistricting process and evidence of the goals President Miller's office was internally pursuing. There are three important dates in Maryland's redistricting process that, when compared to the Maptitude file dates, reveal when information and actions were taken during the process.

- The Governor Redistricting Advisory Commission released its congressional plan on October 4, 2011.
- Governor O'Malley released his map on October 13, 2015.
- Senate Bill 1 (SB1) was introduced on October 17, 2011. The Senate amended and passed the bill on October 18, 2011. The House further amended and passed their version of the bill on October 18, 2011. The Senate agreed to the House amendments on October 20, 2011. Governor O'Malley signed the bill into law on October 20, 2011.[1]

A plan's file creation date indicates the time a plan was loaded into the Maptitude software or edits were made to a plan. For plans that were loaded into Senate President Miller's Maptitude system, we cannot know from these data when an external mapper created a plan or the intermediate steps that were taken by the mapper in formulating the plan.

Analysis of Plans

I discuss the plans chronologically with respect to the dates a plan was created in Senate President Miller's Maptitude system or when it was publicly released.

Benchmark District

The benchmark – i.e., pre-redistricting – Sixth Congressional District does not have a plan file present in President Miller's Maptitude software. However, it is identified in the PL94-171 redistricting population data provided by the Census Bureau. I present it in this supplemental report for comparison purposes.

In Figure 1, I illustrate the boundaries of the benchmark Sixth Congressional District, similar to the one presented in my first report (Initial Report, p.18).

I color the Sixth District in a transparent yellow in this map and subsequent maps to assist readers in identifying the territory assigned to the Sixth District.

Black Caucus Plans (September 15, 2011)

Two plans identified as "Black Caucus A" and "Black Caucus B" appear in President Miller's Maptitude software on September 15, 2011. These two plans have the same configuration of the Sixth Congressional District and Eighth Congressional District, and appear to be alternative explorations of the remainder of the state.

I present in Figure 2 the Black Caucus A plan's Sixth Congressional District. The district largely follows the benchmark Sixth District's boundaries, presented in Figure 1. The major changes are that this proposed Sixth Congressional district does not extend as far to the east, such that the district contains no portion of Harford County and a smaller portion of Baltimore County. To compensate for this lost population, the proposed district contains more of Montgomery County.

[1] See: http://mgaleg.maryland.gov/webmga/frmMain.aspx?tab=subject3&ys=2011s1%2fbillfile%2fsb0001.htm

This configuration of the Sixth Congressional District has a Democratic performance of 38.83%.

These plans show that, prior to the release of the GRAC map, Senate President Miller and his staff were aware that it was possible to redraw the boundaries of the district in a way that would not so dramatically dilute its Republican performance.

GOP Plan (September 15, 2011)

A plan identified as "GOP Plan" was appears in President Millers' Maptitude software on September 15, 2011.

I present in Figure 3 a map of the Sixth Congressional District for the GOP Plan. Like the Black Caucus maps, this configuration of the Sixth Congressional District largely follows the benchmark district. The differences are the district does not cross the Montgomery Country border, does not cross the Harford County border, and includes more of northern Baltimore County,

The Democratic performance of the Sixth Congressional District in the GOP Plan is 38.40%.

As with the Black Caucus plans, the GOP plan illustrates that Senate President Miller's office was reasonably aware that a Republican performant Sixth Congressional district could be drawn.

Congressional Option 1 and Congressional Option 2 (October 3, 2011)

Two plans called "Congressional Option 1" and "Congressional Option 2" (also labeled Plan Av2 and Plan A7, respectively in the files) appear in Senate President Miller's Maptitude software on October 3, 2011. These plans have two different approaches to create a majority-Democratic Sixth Congressional District.

Congressional Option 1 is presented in Figure 4. This is the configuration of the Sixth Congressional District that, apparently, did not merit further consideration. The district follows the northern Maryland state border, splitting Washington County while reaching out to incorporate Hagerstown. The district carves an arc out of Frederick County to include Westminster, Mount Airy, and Frederick. The district then splits Montgomery County, wrapping around to the northeast of Gaithersburg and Rockville. The Eighth District includes the remainder of Frederick County and much of the remainder of Montgomery County needed to balance population.

The Democratic performance of Congressional Option 1 is 50.50%.

Congressional Option 2 is presented in Figure 5. The Sixth Congressional District in this plan largely follows the Potomac River on the Maryland's southern border, all the way to the Maryland-DC border. This configuration of the Sixth Congressional District does not split Washington County. The district splits Frederick County, including all of Frederick and Walkersville in the district. In Montgomery County, the district splits Gaithersburg and Rockville. This approach is very similar to the enacted Sixth Congressional District.

The Democratic performance of Congressional Option 2 is 51.36%.

These plans are significant because they undermine Dr. Lichtman's argument that Democrats' goal was to create "a more competitive district" (Lichtman Report, p.48). The proposal with the higher democratic performance was the configuration of the Sixth Congressional District deemed worthy of further exploratory mapping, while the configuration with the lower Democratic performance (a more competitive district) was abandoned from further consideration, as no subsequent plan incorporates its boundary concepts.

Final GRAC Map (October 4, 2011)

The Final GRAC Map was officially released on October 4, 2011, but was not loaded in Senate President Miller's software until October 14, 2011. The plan is called "Congressional Option 3" and "congressional option 3-1" in Senate President Miller's software.

I present the Final GRAC Map in Figure 6. Congressional Option 2 appears to be the basis for plan development leading to the Final GRAC Map. Republican areas of Frederick County were cut from Congressional Proposal 2's Sixth Congressional District, leaving a cutout of Frederick within the district. The Sixth Congressional District was reconfigured so that it did not stretch to the DC border. To the naked eye, it no longer appears to split Gaithersburg or Rockville, instead included the whole of Gaithersburg and wrapped around Rockville to pick up more territory in the central-east portion of Montgomery County.

This plan development strategy is consistent with my prior redistricting work for redistricting authorities. Once a broad approach is approved, additional fine-tuning of a plan's districts is conducted until satisfactory districts are created.

The sum of the political effects of these changes was to increase the democratic performance of the Sixth District from 51.36% in Congressional Option 2 to 52.81% in the Final GRAC Map.

These changes again suggest that a goal of the GRAC was to maximize the democratic performance of the Sixth Congressional District, to the further detriment of Republican voters residing within the Sixth Congressional District. The goal was not to create a competitive Sixth Congressional District.

Options 1, 2, and 3 (October 12, 2011)

Following the formal adoption of the Final GRAC map on October 4, 2011 and the Governor's plan on October 15, 2011, a series of three plans with file dates of October 12, 2011 appear in President Miller's Maptitude software. These plans are labeled as Option 1, Option 2, and Option 3 in map images provided to me, so I will use these names. In the software they have the names "111012 Group", "111012 Group2", and "111012 Group Zeroed Out." Backup file data indicate someone, most likely Mr. Weissmann given his declaration, used President Miller's Maptitude

software to actively create redistricting plans on October 12, 2011, rather than passively importing redistricting plans from external sources.[2]

I present these two of these three options in Figure 7 and Figure 8. Figure 7 shows Option 1, which nearly identical to the Final GRAC Map. Figure 8 presents Option 3, which makes minor changes around the edges of Option 2. Consistent with this observation, the Maptitude names suggest that the primary difference between Option 2 and Option 3 is that the population was balanced to equality between the congressional districts. I do present a map of Option 2 for this reason.

Option 1 appears to be based on the Final GRAC Map. The Sixth Congressional District is identical, but there are other changes to other districts. This configuration thus appears to represent the configuration of the Sixth Congressional District acceptable to the person using Senate President Miller's software on October 11, 2011, as it was frozen into place while mapping occurred elsewhere.

Option 1 has a Democratic performance of 52.81%, which is identical to the Final GRAC Map.

Option 3 represents an alternative configuration of the Sixth Congressional District with the substantive changes from the Final GRAC Map being the swapping of the entirely of Rockville and Gaithersburg between the Sixth and Eighth Congressional Districts, no longer wrapping the Sixth District around Rockville, and extending the Sixth District to the Maryland/DC border.

Option 3 has a Democratic performance of 52.89%, slightly higher than the Final GRAC Map.

I do not know if Option 3 was shared with anyone outside of Senate President Miller's office.

Final Governor Map (October 13, 2011)

On October 15, 2011 Governor O'Malley publicly released his proposed redistricting plan. This plan was eventually adopted by the legislature and became the adopted plan. The plan appears two days earlier in Senate President Miller's Maptitude system on October 13, 2015, with the name "Congressional Option 4." I will refer to this plan as the "Final Governor Map," which is the name of the plan as it appears in the map images provided to me.

I provide a map of the Final Governor Plan's Sixth Congressional District in Figure 9. The Final Governor Map's Sixth Congressional District is substantially similar to the Final GRAC Map, except for some minor differences. The Sixth Congressional District in the Final Governor Map has an odd rabbit-eared extension of the Eighth Congressional District on the western portion of Rockville, crossing the Rockville boundary. This Final Governor's Plan also gives a small portion of the Sixth Congressional District along the southern-most portion along the Potomac River to the Eighth Congressional District. In exchange for losing population in these areas, the isthmus joining the northern and southern portions of the Eight Congressional District is made narrower, and a dagger-shaped sliver is sliced into the Eighth Congressional District just north of

[2] The plan names also suggest mapping activity on October 12, 2011 if in "111012" the first two digits represent the year, the next two digits represent the month, and the last two digits represent the day.

this narrowed isthmus. I have no information as to why these changes were made, but in my prior redistricting experience these changes are often a result of map drawers anticipating future candidates to offices and strategically placing their homes within desired districts. I understand that the parties have stipulated that these changes are not material to the issues being litigated in this case.

The Final Governor Map, which becomes the adopted plan, has a Democratic performance of 52.61%, 0.2 points lower than the Final GRAC Map and 1.25 points higher than Congressional Option 2.

Option 4 (October 16, 2011)

Following the release of the Final Governor's Plan on October 15, 2011, someone – most likely Mr. Weissmann – used Senate President Miller's Maptitude system to edit the Sixth Congressional District. This exploratory map appears based on the Final Governor's Plan, and was created on October 16, 2011. This plan is called "111016 Plan" in Senate President Miller's Maptitude software, and is identified as "Option 4" in the map images provided to me.

I provide a map of Option 4 in Figure 10. The Sixth Congressional District in this plan appears to cut a larger portion from the Sixth Congressional District around the rabbit-eared extension west of Rockville in the Final Governor's Map and begins to balance back the lost population by adding territory assigned to the Eighth District, such as the portion along the Potomac excised from the GRAC Final Map's Sixth Congressional District.

This plan's Sixth Congressional District is clearly an incomplete test map as its population is not balanced and it has noncontiguous holes.

The Democratic performance of this district is 51.58%.

Although I cannot know why this plan was abandoned, a plausible explanation is that further lowering of the Democratic performance of the Sixth Congressional District was deemed unacceptable.

Un-Named Plan (FLHPAC Plan, October 17, 2011)

A plan named "FLHPac Plan," an apparent reference to the Fannie Lou Hammer Political Action Committee, appears in President Miller's software on October 17, 2011. The plan has four Democratic and four Republican Congressional Districts. The Sixth Congressional District has a Democratic performance of 38.05%.[3]

This plan was apparently not considered by the Democrats nor was explored further in test mapping, so I do not provide a map or further analysis. The mapdrawers' evident refusal to consider a map with so low a federal DPI for the Sixth District is consistent with an intent to draw the Sixth District as a safe district for Democrats.

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[3] The district that includes the panhandle counties is labeled CD1 in this plan, and is most analogous to the Sixth Congressional District.

SB1 Map (October 18, 2011)

Senate Bill 1 is named "SB1 Map" in the map images provided to me and is named "SB1 Plan" in Senate President Miller's Maptitude software. Although the plan was introduced in the Maryland Senate on October 17, 2011, the creation date for the Maptitude plan and all backup files for this plan is two months later, on December 18, 2011. This suggests that Senate Bill 1 may have been developed by someone outside of Senate President Miller's office.

SB1 makes small changes to the Final Governor Map, primarily around Frederick.

The Democratic performance of the Sixth Congressional District is 52.62%.

Conclusion

In summary, it is my opinion, based on a forensic analysis of the Maptitude files provided to me and the analyses in my initial reports (Exhibits Q and BBB), that the drafters of Maryland's 2011 redistricting plan intended to draw the Sixth District so as to dilute Republican votes and ensure the election of Democratic candidates for office in the district.

Date: July 6, 2017

Prof. Michael P. McDonald, PhD

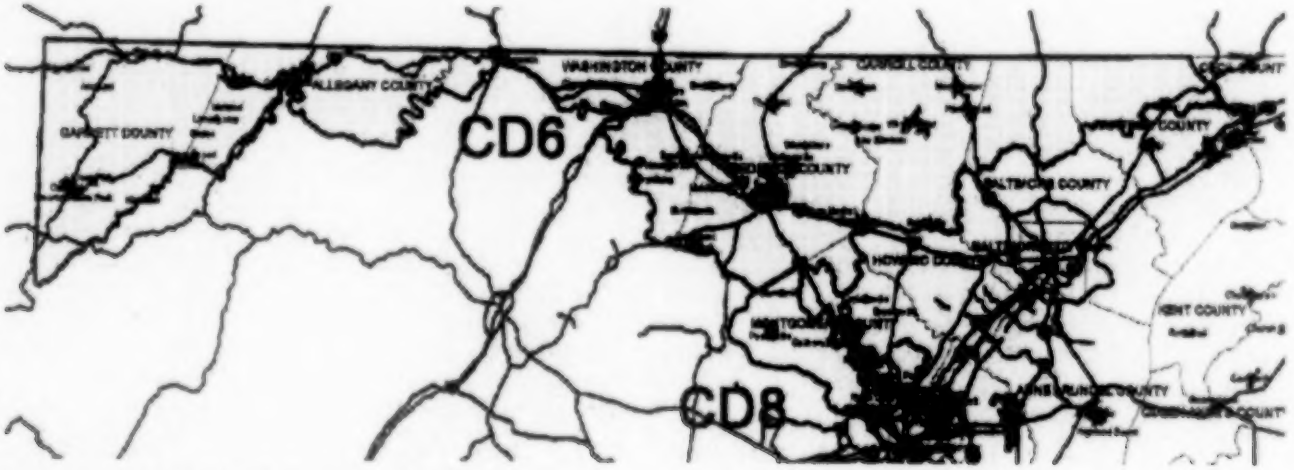


Figure 1. Benchmark Sixth Congressional District.

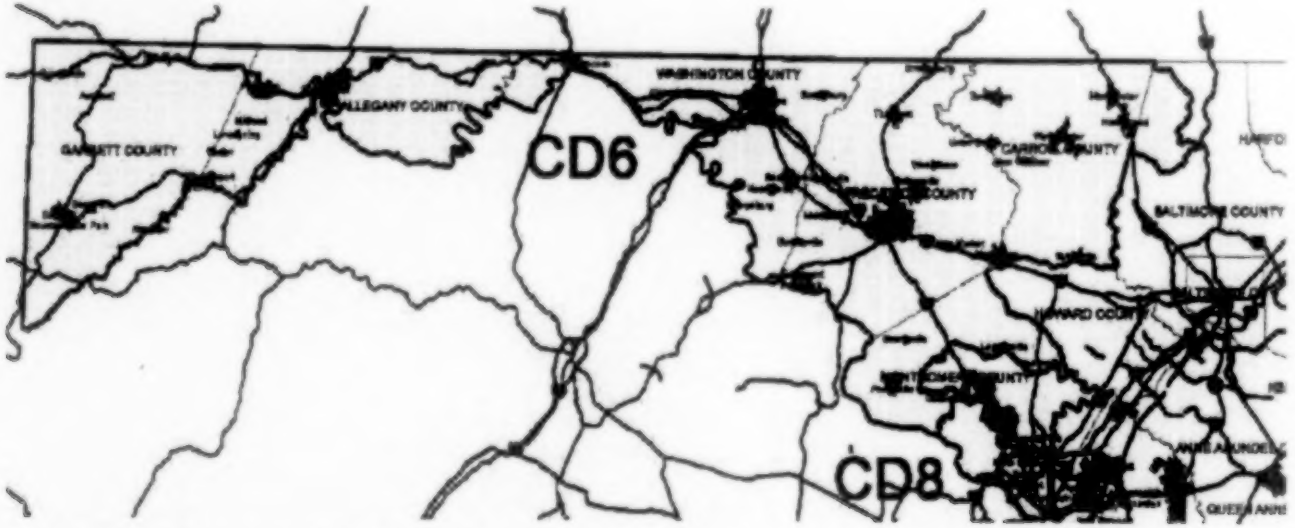


Figure 2. Black Caucus Plans (A& B) Proposed Sixth Congressional District.

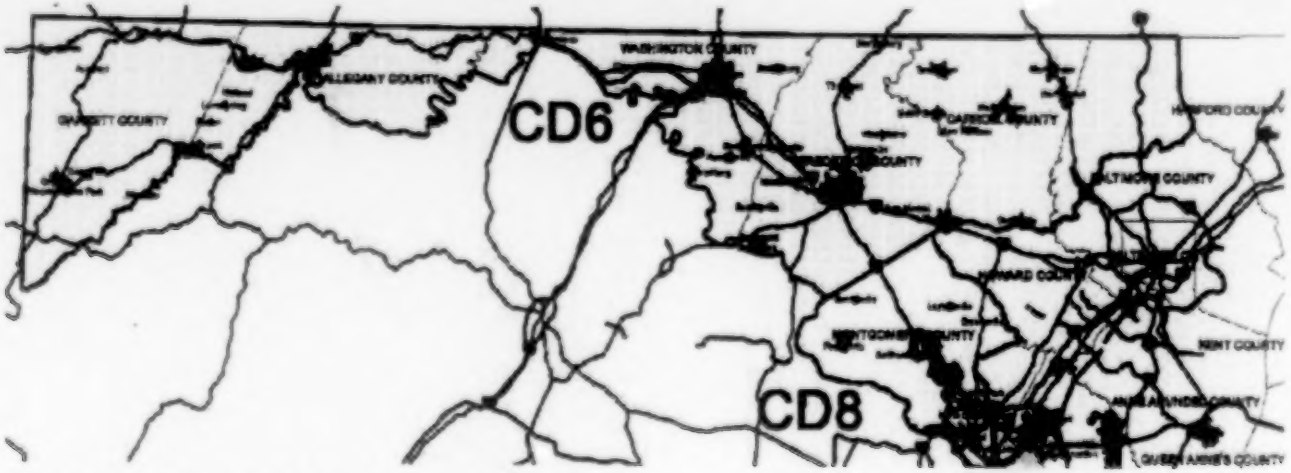


Figure 3. GOP Plan, Proposed Sixth Congressional District.

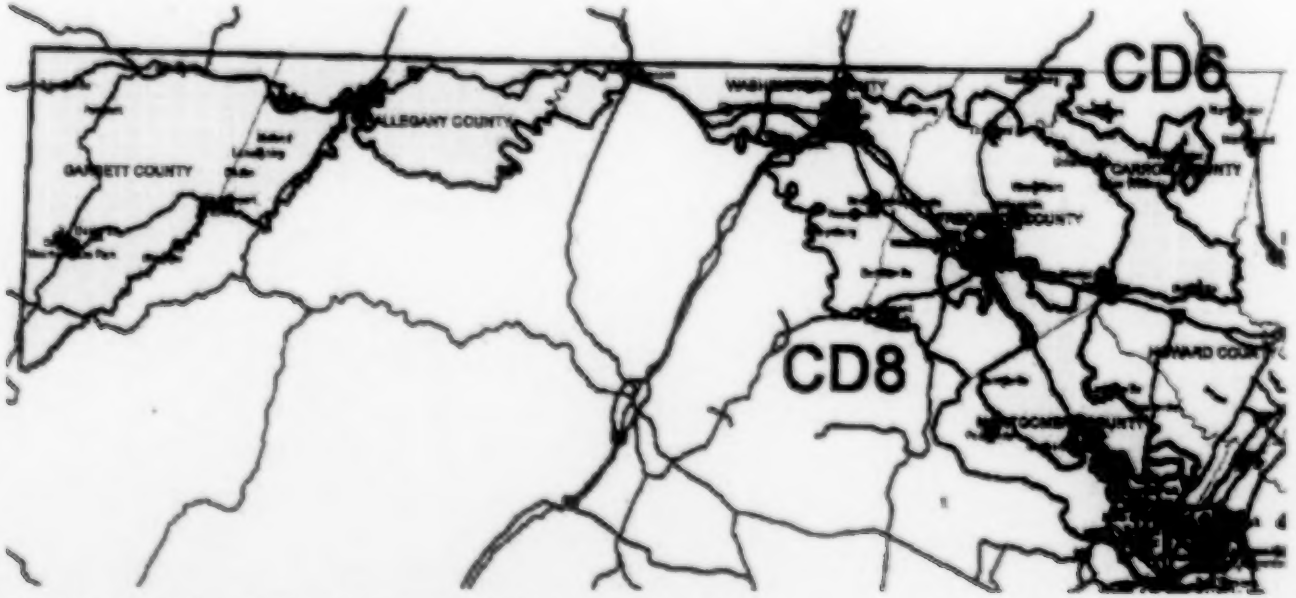


Figure 4. Congressional Proposal 1, Proposed Sixth Congressional District.

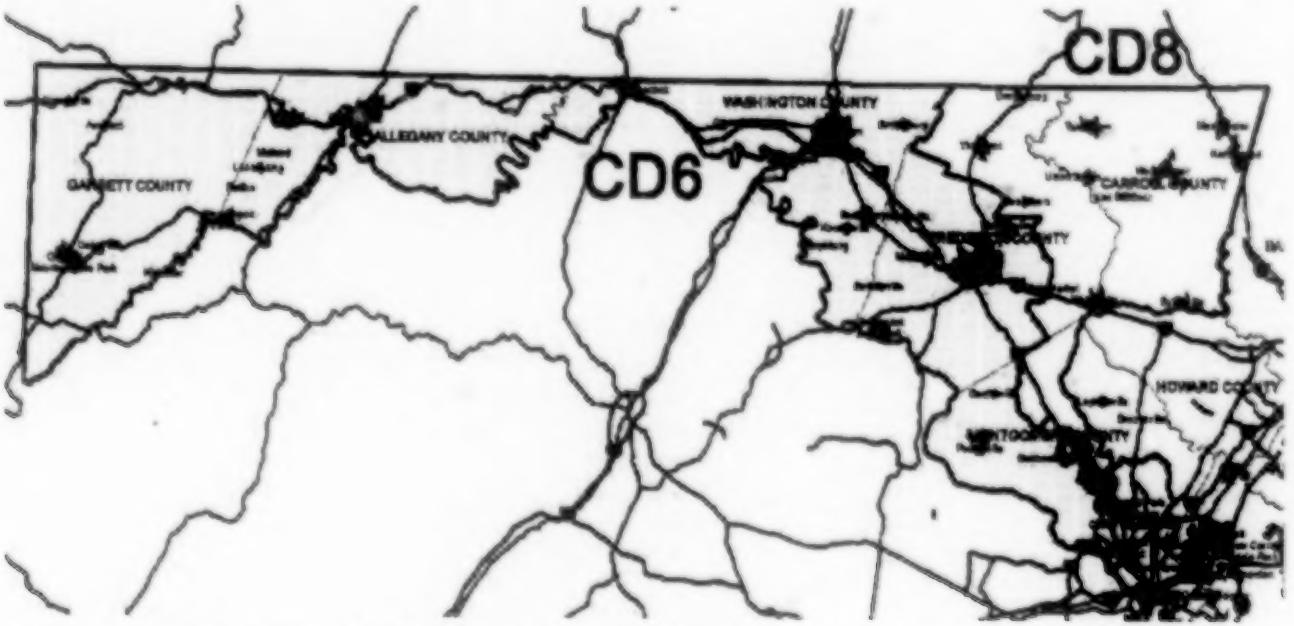


Figure 5. Congressional Proposal 2, Proposed Sixth Congressional District.

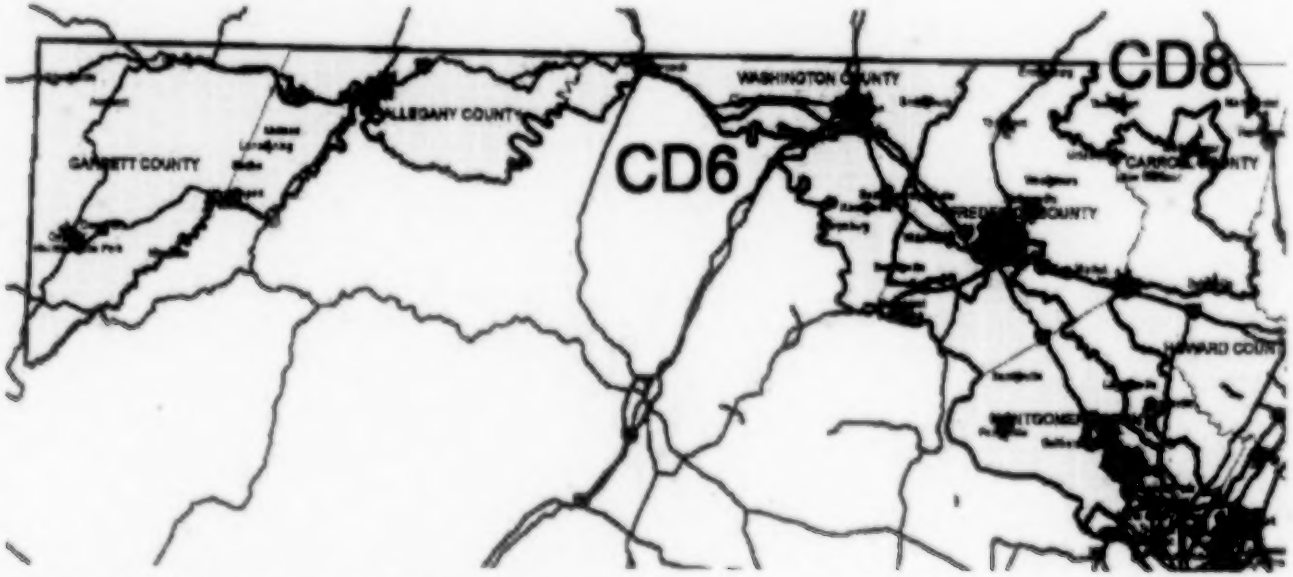


Figure 6. Final GRAC Map, Proposed Sixth Congressional District.

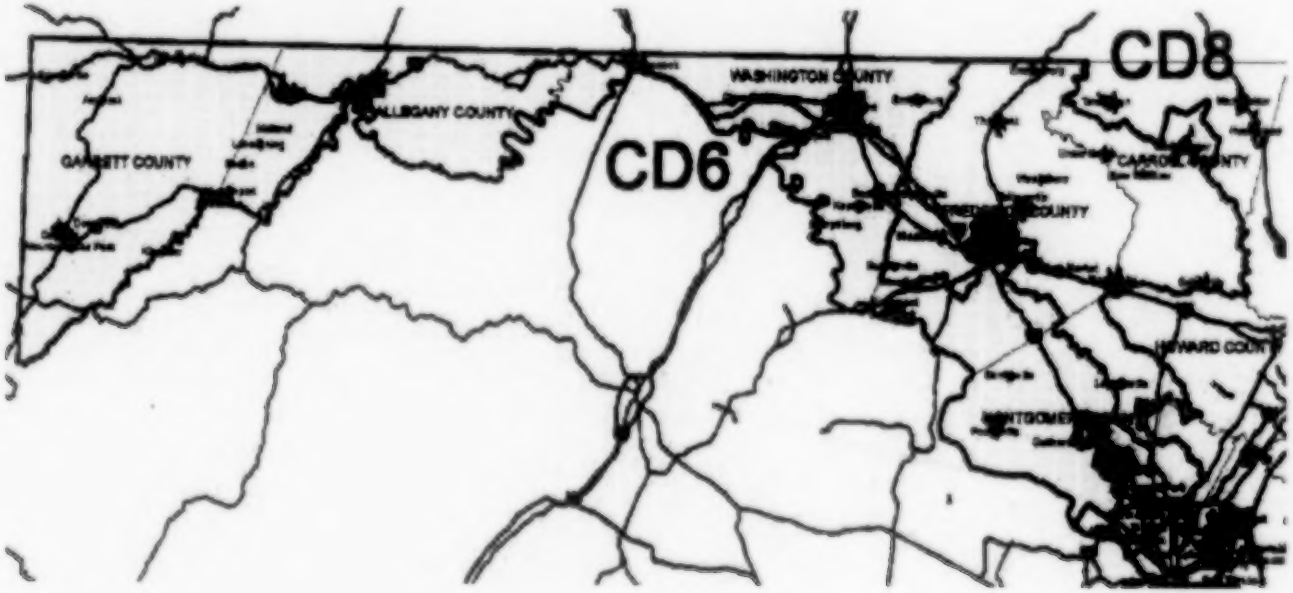


Figure 7. Option 1, Proposed Sixth Congressional District.

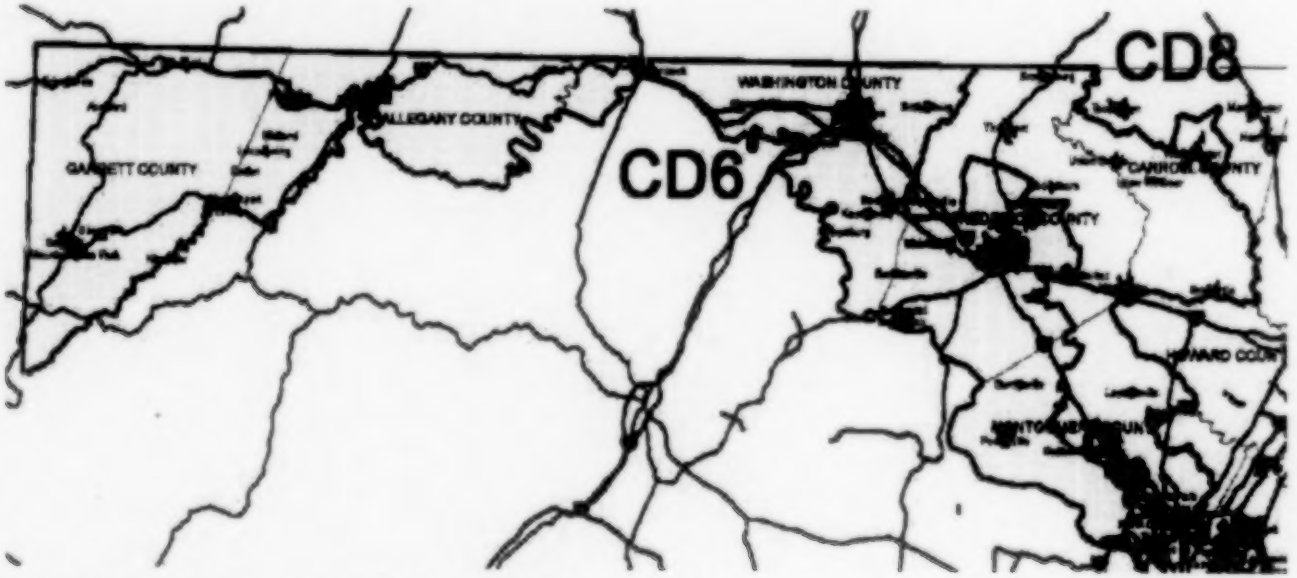


Figure 8. Option 3, Proposed Sixth Congressional District.

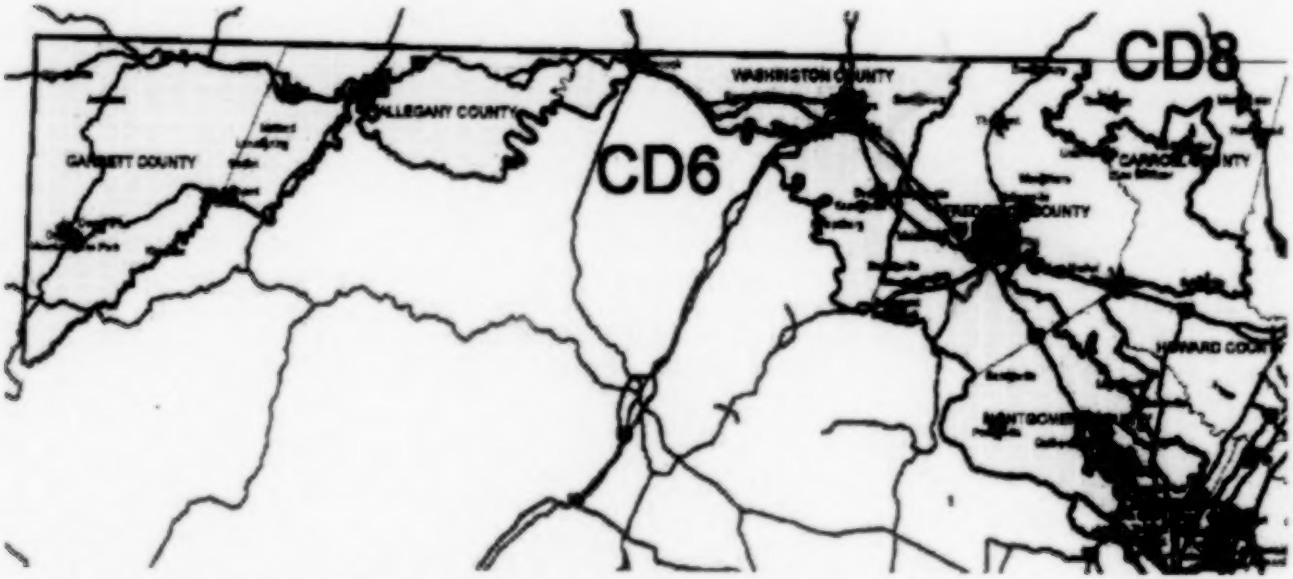


Figure 9. Final Governor Map (Adopted by Legislature), Adopted Sixth Congressional District.

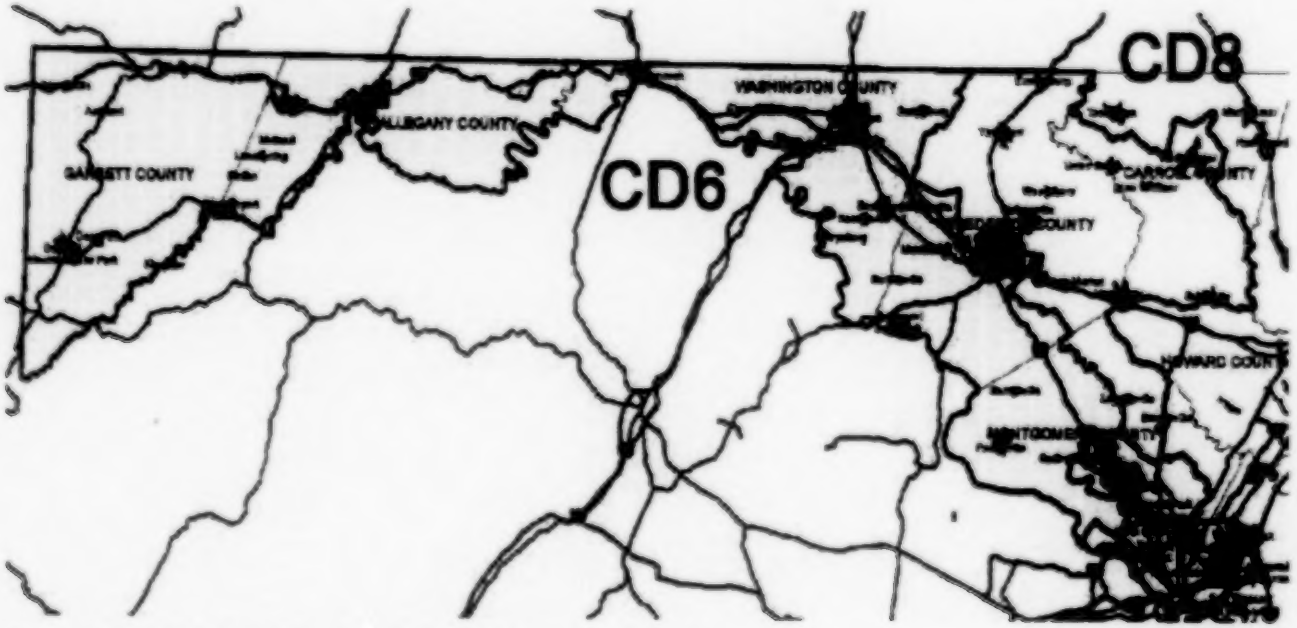


Figure 10. Option 4, Abandoned Plan for Sixth Congressional District.

Gmail Jason Gleason <jason.gleason03@gmail.com>

Fwd: Fw: Map

1 message

Brian Romick <brianromick@gmail.com> Tue, Oct 18, 2011 at 9:59 AM
To: Jason Gleason <jason.gleason03@gmail.com>

---------- Forwarded message ----------
From: "Yaakov \"Jake\" Weissmann" <yweissm1@gmail.com>
Date: Tue, 18 Oct 2011 09:57:31 -0400
Subject: Re: Fw: Map
To: Brian Romick <brianromick@gmail.com>

14-004 in the 3rd is a couple of census blocks with no people in it (probably done to clean it up somewhere along the line by us or Eric). I sent it on to Pat, and let you know if he says anything.

On Mon, Oct 17, 2011 at 9:35 PM, Brian Romick <brianromick@gmail.com> wrote:

> Do you happen to know the answer to this? Thank you.
>
> ---------- Forwarded message ----------
> From: Eric Hawkins <ehawkins@ncecservices.com>
> Date: Mon, 17 Oct 2011 20:47:49 -0400
> Subject: RE: Fw: Map
> To: Brian Romick <brianromick@gmail.com>
>
> Not really sure what this is all about, but those precincts aren't
> included in the third district in the final plan I received from the
> state.
>
> Eric Hawkins
> NCEC Services, Inc.
> 202-459-2170
> ehawkins@ncecservices.com
>
> -----Original Message-----
> From: Brian Romick [mailto:brianromick@gmail.com]
> Sent: 10/17/2011 8:37 PM
> To: Eric Hawkins
> Subject: Fwd: Fw: Map
>
> Is this something to worry about?
>
> ---------- Forwarded message ----------
> From: jason.gleason03@gmail.com
> Date: Tue, 18 Oct 2011 00:27:09 +0000
> Subject: Fw: Map
> To: Brian Romick <brianromick@gmail.com>
>
> See below. Not sure who we tell about this but it may throw population
> off unless I'm missing something. Bill appeared to add 2-018 in AAC
> and part of 14-004 in Balt Co from list Eric sent. .
> -----Original Message-----
> From: Eric Hawkins
> To: Jason Gleason
> Subject: RE: Map
> Sent: Oct 17, 2011 8:12 PM
>
> Haven't received anything new and nothing that includes those changes.

> 02-018 has 2,591 persons and a 53.1% DPFM. 04-004 has 436 persons with
> a 44.3% DPFM.
>
> Eric Hawkins
> NCEC Services, Inc.
> 202-459-2170
> ehawkins@ncecservices.com
>
>
> -----Original Message-----
> From: jason.gleason03@gmail.com [mailto:jason.gleason03@gmail.com]
> Sent: 10/17/2011 7:29 PM
> To: Eric Hawkins
> Subject: Map
>
> Hey,
>
> Just went through the bill text in the General Assembly and it looks
> like a couple minor changes happened since the last spreadsheet you
> sent. Added to our district were 02-018 in AAC and 14-004 in balt co.
> Any idea what happened here and if something came out that I missed to
> accommodate the population. Finally is our performance still 58.36?
>
> Jason
> Sent from my Verizon Wireless BlackBerry
>
> Sent from my Verizon Wireless BlackBerry
>

The Seats in Trouble Forecast of the 2010 Elections to the U.S. House

James E. Campbell, *University at Buffalo, SUNY*

All indications are that 2010 will be a very good year for Republicans. After two election setbacks, they are poised for a comeback. Partisanship, ideology, the midterm decline from the prior presidential surge, the partisanship of districts being defended, and even President Obama's approval ratings have set the stage for significant seat gains by Republicans in the House.

THE CONTEXT OF THE 2010 MIDTERM

In terms of partisanship, the electorate is nearly evenly divided, certainly more so than the current House division of 257 Democrats to 178 Republicans (59% to 41%) left by the 2008 election. Democrats gained a few points in macropartisanship in 2008, offsetting Republican gains in 2004, but the slight edge for the Democrats left after the 1984 realignment of party identification remains pretty much intact (Campbell forthcoming; Norpoth 1987). An average of three Gallup polls conducted between May and mid-June of 2010 show an electorate that is 46% Democratic and 43% Republican (Gallup 2010).

In terms of ideology, self-described conservatives continue to outnumber self-described liberals by a substantial margin (Campbell 2007). In June 2010, 42% of respondents told Gallup that they were conservatives, while 20% claimed to be liberals, and 35% said they were moderates (Saad 2010). Not surprisingly, 49% of Americans thought that the Democratic Party was too liberal, and 48% found them to be either about right or even too conservative (Jones 2010a). The nearly even division in partisanship and the conservative tilt in ideology suggest that the current equilibrium in the electorate is far more Republican than the status quo in the House.

The results of the last two elections also boost Republican prospects. The midterm decline from the 2008 presidential surge should benefit the Republicans. A number of Democrats will be running without the help they received from President Obama's victory in 2008 (Campbell 1960; Campbell 1997). Democratic gains in 2006 (31 seats) and 2008 (24 seats) have left many House Democrats in the unenviable position of running in districts hospitable to Republicans. Democrats are defending 47 seats in districts that were carried by Bush in 2004 and McCain in 2008. In contrast, Republicans hold only six seats in districts carried by Kerry in 2004 and Obama in 2008. In the language of the exposure thesis, Democrats are overexposed going into the 2010 midterm (Oppenheimer, Stimson, and Waterman 1986). The number of seats they currently hold far exceeds their base or average holdings in the last 20 years. In the 10 elections since 1990, Democrats won an average of 226 seats, 31 fewer than in 2008.

The political climate as we enter the fall campaign season also favors Republicans. Partisan parity, political polarization, the departure of an unpopular Republican president, and his replacement with a very liberal Democratic president and Congress constitute a powerful political mix that may lead to a Republican resurgence. Having been on the defensive in 2006 and 2008 and then relegated to the sidelines as President Obama and the Democratic-controlled Congress passed liberal policies over the last two years, conservatives are energized for 2010. Polls, primary turnouts, the emergence of the Tea Party movement, and Republican victories in 2009 (including Scott Brown's Senate win in Massachusetts) are unmistakable stirrings of a revitalized right. In June, Gallup reported that 53% of Republicans were more enthusiastic than usual about voting. Only 35% of Democrats were similarly enthusiastic (Jones 2010b). And although President Obama is not unpopular at this point (his approval ratings stand in the mid 40s), he also does not have the strong approval ratings that would provide much help to his party in staving off significant midterm losses (Tufte 1978).

SEATS IN TROUBLE

While long-term factors are quite favorable for Republicans in 2010, they indicate only the election's potential and therefore provide only limited guidance in anticipating the results of the election. Greater forecast accuracy requires predictors that take into account the more localized, short-term, and prospective factors that are critical to congressional outcomes as well as the effects of national, long-term, and retrospective considerations. My strategy in devising an accurate and plausible forecasting equation was to build a model around a core predictor that would offer an accurate reading of where the election stood at the time of the forecast, and to then augment the model with contextual variables that would provide guidance on how things were likely to change between the time of the forecast and the election. This is the same strategy that was used in devising the trial-heat model of the presidential vote (Campbell and Wink 1990).

The model developed and used here for House elections is the "seats in trouble model." I also think of it as the "exposure-thesis-on-steroids model."[1] The exposure thesis suggests that an overexposed party holds more seats than usual, and that this might leave it with more seats in trouble or in danger of being lost. The exposure-thesis-on-steroids or seats in trouble model is based on estimates of the extent to which one party has more seats *actually* in trouble.

The core variable of this seat change forecasting model is based on the intensive political handicapping of congressional

doi:10.1017/S1049096510001095

elections conducted for the last 26 years by Charlie Cook and his colleagues at the *Cook Political Report*.[2] Beginning in 1984 and in each election since, Cook has made a comprehensive district-by-district assessment of the electoral prospects of each political party at various points before and during the election year. Each seat is scored as "solid" Democratic, "likely" Democratic, "leaning" Democratic, "toss-up," "leaning" Republican, "likely" Republican, or "solid" Republican. According to Cook, seats identified as likely for a party "are not considered competitive at this point, but have the potential to become politically engaged" (Cook 2010). Leaning districts are considered competitive, "but one party has an advantage." In toss-up districts, "either party has a good chance of winning." For forecasting purposes in both on-year and midterm elections, I used Cook's latest assessment, made between July and the first day of September in the year of the election being forecast. In most years, the assessment used was made in mid- to late August. Since assessments were not conducted during these months in 1986 and 1990, those years could not be included in constructing the forecasting equation. This leaves 11 usable elections.

the number of seats that Cook viewed as solid, likely, or leaning toward that party. The remainder is the number of seats [illegible] in trouble. This figure is slightly different from the number of toss-up districts, since it also counts districts currently held by a party but anticipated by Cook to be leaning, likely, or solidly in the opposing party's column. This algorithm also addresses the problem of how to count toss-up districts in redistricting years. The predictor variable is the difference between each party's number of seats in trouble. The logic of the indicator is that the more troubled seats a party holds relative to the opposing party, the more seats it should lose in the election.

An alternative measure that included leaning seats in the index as potentially troubled seats was also examined but did not strengthen the equation. This would seem to reflect both the generally high success rates that the parties have had in holding their leaning seats as well as the variance in that rate (the 2006 and 2008 Republican losses). Because of the generally high success rates for parties in their leaning districts and the occasional variance in this rate, the indicator counts as troubled only those districts that are toss-ups or worse.

Democratic gains in 2006 (31 seats) and 2008 (24 seats) have left many House Democrats in the unenviable position of running in districts hospitable to Republicans. Democrats are defending 47 seats in districts that were carried by Bush in 2004 and McCain in 2008. In contrast, Republicans hold only six seats in districts carried by Kerry in 2004 and Obama in 2008. In the language of the exposure thesis, Democrats are overexposed going into the 2010 midterm.

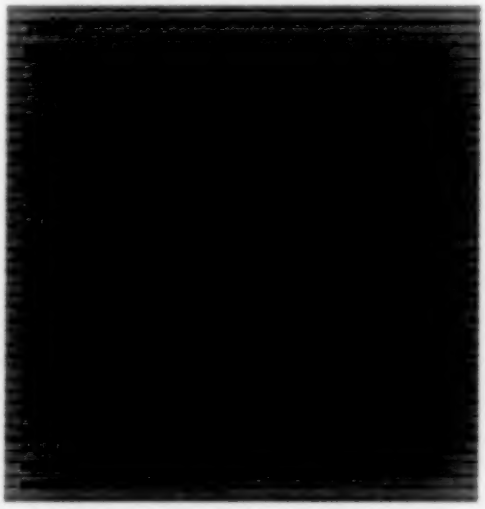
Cook's record of accuracy in handicapping individual district elections is impressive. Although the powers of incumbency and district partisanship play a role in predicting outcomes, there is clearly a great deal of value-added in these late summer assessments. In the 11 elections examined, districts rated as solidly in a party's column turned out to be nearly sure bets (99.8% for Democrats and 99.7% for Republicans). The parties were nearly as certain to hold their likely seats (94.0% for Democrats and 95.1% for Republicans) and were very successful in holding their leaning seats (88.2% for Democrats and 85.0% for Republicans)—although leaning districts were not quite so safe for Republicans in the last two election cycles. In 2006, Republicans held only 38% of the seats identified as leaning their way in late August. In 2008, they won only 55% of these leaners.[3]

The aggregate outcomes in toss-up districts were about as anticipated and generally quite different from the outcomes in leaning districts. When the previous party holding the seat could be determined (setting aside a number of seats affected by reapportionment and redistricting), Democrats held about 48% of their toss-up districts and Republicans about 55% of theirs.

From Cook's district data, I constructed an aggregate forecasting measure: seats in trouble. The measure takes the number of seats that a party won in the prior election and deducts

Table 1 presents the number of troubled seats for each party and the difference between them, as well as the Democratic seat change in these 11 elections. Note that it is possible to have a negative number of seats in trouble for a party if some seats currently held by the opposing party are seen as likely or sure wins for the other party in the next election, or if a party has gained seats in special elections since the previous national election. This was the case for the Democrats in 2006.[4]

The pattern of seats in trouble corresponds quite closely with the extent and direction of seat change. In most of this period, seat losses were small, as were the differences in the number of seats each party held that were in trouble. The three elections in which one of the parties registered significant seat gains were those in which the other party had many more seats in peril. In the Republican realignment year of 1994, the last act of the staggered realignment (Campbell 2006; Paulson 2006), the Democrats could count 47 seats in trouble—and they ended up losing even more. In 2006, with an unpopular president, late August estimates showed 19 Republican seats in trouble. Late-breaking congressional scandals increased this number and eventually led to Republican seat losses that were significant enough to cost them control of the House. In 2008, with 27 seats in trouble (compared to none for the Democrats), the Republicans lost another two dozen seats.



PRIOR SEATS HELD AND PRESIDENTIAL APPROVAL

With the principal "seats in trouble" predictor in place, the second component of the forecasting model was to determine whether any contextual variables improved the accuracy of the forecasting equation. I examined several variables, including the generic vote, but found only two that seemed plausible and added predictive value. The first was the number of seats a party won in the previous election. This takes note of the fact that a party cannot lose seats that it does not have and cannot gain seats that it already holds (Campbell 1997, 131). It also acknowledges the political fact that it becomes increasingly difficult to gain seats as a party's seat holdings increase. A party registers gains first where it is easiest for it to do so, and it becomes progressively more difficult for the party to pick up additional seats in areas that are more inclined to support the opposition party.

The second contextual variable was presidential approval. As the leader of the party, reactions to the president affect the party's fortunes both in on-years (Campbell 1997) and in midterms (Tufte 1978). While presidential approval ratings have long been used to reflect the referendum or retrospective nature of elections, especially midterm elections, not much attention has been given to determining the neutral value of approval—that is, the value of approval necessary for the president to neither help nor hurt the party's congressional fortunes. After examining the empirical evidence, it is clear that presidential approval ratings mean one thing in presidential elections in which two parties are contending for the office and quite another in midterms in which there is no presidential choice to be made. There is little evidence to support the commonly assumed (and rarely justified) 50% mark as being the neutral point in either case. In presidential elections, presidents with 50% approval always win. In midterms, the parties of presidents with 50% approval always lose seats. The on-year politically neutral point seems to be closer to 45%. Some voters who disapprove of the president still vote for him, believing him to be better than the alternative.

The neutral point is quite a bit higher in midterms, and recent midterm successes by both parties provide us with some bearings in its determination. Democratic in-party gains in the 1998 midterm and Republican in-party gains in the 2002 midterm suggest that the neutral point in midterms is around 65%. Between 1870 and 1994, the president's party gained seats in only one of the 32 midterm elections. That year was 1934, the first midterm election of the New Deal realignment. Then, in 1998, with President Clinton's approval ratings in Gallup sitting at 66% at the end of October, Democrats defied the odds and gained five seats. Four years later, after September 11 and with President Bush's approval ratings in Gallup at 63% just prior to the 2002 election, the Republicans also defied the midterm loss rule and gained eight seats. Without a partisan presidential choice on the table, the positivity inclination of most citizens seems to guide their approval ratings toward the high side in midterm elections. A 65% rating in the heat of a presidential year is astounding and a precursor to a landslide. A 65% rating in a midterm sounds great but, politically, is approximately neutral and only a precursor to holding the status quo.

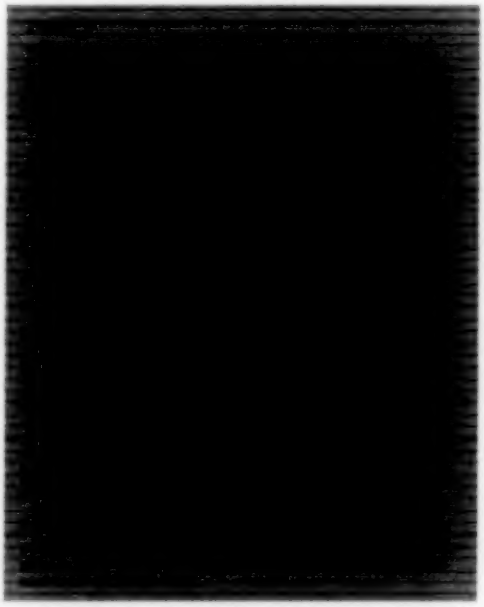
In this model, I calculated a presidential approval index by subtracting the neutral point (45% on-year or 65% midterm) from the Gallup measure of presidential approval near the end of August. The index was oriented by party by taking its negative value when a Republican was president. The index ranges from −21 in 1994, when President Clinton's approval rating stood at 44%, to 27 in 2006, when President Bush's approval rating was 38%. As one might expect, the approval index is highly correlated ($r = -.70$) with the seats in trouble variable.

THE FORECAST EQUATIONS

Table 2 presents the forecast equations. The predicted election outcome is seat change for the Democratic Party. Outcomes are calculated from the prior election rather than after special election results. The data for the number of seats held by each party are from the U.S. House of Representatives, Office of the Clerk (2010). For comparability, seats won by independent or third-party candidates are divided equally between the two major parties.

Equation 1 presents the simple bivariate relationship between Democratic seat change and the relative number of Democratic seats in trouble. This simple association is quite strong. A party should expect to lose slightly more than one seat for every net seat that is in trouble.

Equation 2 adds the initial number of seats held by the Democrats. A party loses about one seat for every one that is in trouble and one seat for every additional five that it holds at the outset. While the equation has a strong fit, a substantial envelope of uncertainty around any forecast remains. The median absolute error, based on out-of-sample estimates, is about 5.5 seats. There are numerous local factors that assessments of seats in trouble may have missed or that may have developed after the last summer forecasts.



In equation 3, the presidential approval index is added in lieu of the lagged seats variable. The overall fit of equation 3 is about the same as that of equation 2. This is reassuring in that two different contextual variables added to the seats in trouble consideration produce equations of approximately equal strength. Equation 3 indicates that a party should expect to lose just under one seat for every seat in trouble, and that a party should expect to lose about six seats for every 10 points that it falls short of the neutral level of presidential approval. Because of the small number of cases available for the estimation, an equation with both the lagged seats and the approval index along with the seats in trouble variable produced coefficients that were not significant at conventional levels for the lagged seats and approval index variables.

THE 2010 FORECAST

What does the seats-in-trouble model predict for 2010? First, as of the *Cook Political Report*'s assessment in late August 2010, Democrats have 42 seats in trouble and Republicans stand at negative two. The seats in trouble variable is thus 44, about as large as it was in the 1994 midterm and consistent with the Republican disposition of the election's fundamentals or context. The lagged number of Democratic seats held is 257. President Obama's approval rating in late August 2010 stood at 44%. With a neutral point at the midterm of 65%, the presidential approval index stands at negative 21.

Based on the seats in trouble indicator and the two contextual variables of equations 2 and 3, the forecast is that Democrats will lose about 51 or 52 seats, leaving them with a total of 205 or 206 seats. The odds appear to be quite favorable for the Republicans regaining the House majority that they lost in 2006. ■

NOTES

1. With due recognition to Bruce Oppenheimer, Jim Stimson, and Richard Waterman, the developers of the original exposure thesis (1986).
2. My thanks to Charlie Cook, Meredith Harman, Ben Neyler, and everybody at the *Cook Political Report* for so generously sharing their data. See Cook 2010.
3. Both the 2006 and 2008 elections may have been affected by unusual late-breaking events. The Mark Foley scandal broke in late September of 2006, and nine-up Republican districts increased from 28 to 26 in a couple of weeks. The Wall Street meltdown broke in mid-September of 2008, and the number of Republican nine-ups eventually rose from 19 to 30. There are indications that Cook underestimates a party's troubled seats in elections with strong political currents, which he refers to as "wave elections" (e.g., 1994, 2006, and 2008). Reflecting this tendency to underestimate, a squared troubled seats variable did perform somewhat better than the simple variable, but there are too few cases upon which to base this more complex specification.
4. In 2006, the Democrats started off with 202 seats and were credited with half of the independent seat. 183 seats were considered solid and 22 likely for 2006. Another 10 seats, including one previously Republican seat, were counted as leaning Democratic. Because there were no Democratic nine-up seats, their net number of seats in trouble was a negative 1.5 seats.

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THE COOK POLITICAL REPORT

Rep. Roscoe Bartlett (R)

In race 2010 House - MD-06

RACE OVERVIEW

RACE RATING

Initial Rating: 11/12/08

Solid R

MORE CANDIDATE INFO

Roscoe Bartlett's FEC data

Allegany	12,881	814	135	549	14,159	38,128	37.14%
Anne Arundel	67,052	6,590	1,449	1,962	79,053	264,150	29.93%
Baltimore City	61,359	7,235	1,877	2,270	72,741	319,342	22.78%
Baltimore County	110,652	12,875	1,908	3,347	128,782	416,139	30.95%
Calvert	11,185	925	217	386	12,713	55,811	22.78%
Caroline	3,838	637	99	104	4,678	14,837	31.53%
Carroll	24,596	1,770	210	771	27,347	86,883	31.48%
Cecil	11,851	1,285	129	281	13,546	59,337	22.83%
Charles	18,111	1,962	241	511	20,825	89,282	23.32%
Dorchester	5,247	854	90	510	6,501	17,310	37.56%
Frederick	30,681	1,611	300	737	33,329	136,477	24.42%
Garrett	5,701	732	81	282	6,776	16,256	41.68%
Harford	34,643	3,790	331	841	39,605	135,151	29.30%
Howard	33,197	4,628	607	1,009	39,441	176,602	22.33%
Kent	3,242	848	34	179	4,301	12,382	34.74%
Montgomery	98,619	7,585	1,740	5,735	113,679	569,234	19.97%
Prince George's	87,177	14,541	2,450	2,538	106,706	498,718	21.40%
Queen Anne's	7,869	1,006	207	242	9,324	24,775	37.63%
Saint Mary's	12,135	978	149	630	13,892	47,645	29.16%
Somerset	3,461	391	66	186	4,104	11,521	35.62%
Talbot	5,550	1,431	43	244	7,268	21,108	34.43%
Washington	19,089	833	115	856	20,893	82,729	25.25%
Wicomico	10,609	1,444	163	588	12,804	44,687	28.65%
Worcester	8,948	927	110	529	10,514	29,342	35.83%
Total Turnout By Party	687,673	77,290	12,731	25,287	802,981	3,167,846	
Total Voter Turnout	687,673	77,290	12,731	25,287	802,981	3,167,846	25.35%

DEMOCRAT	Polls	EV	Prov	Abs	Total Voters	Eligible Voters	Turnout
Allegany	5,032	260	47	236	5,575	16,598	33.59%
Anne Arundel	32,050	4,796	553	961	38,360	144,792	26.51%
Baltimore City	57,391	6,885	1,344	2,043	67,663	287,660	23.52%
Baltimore County	75,455	10,059	851	2,216	88,581	289,193	30.63%
Calvert	5,096	488	85	169	5,818	23,050	25.24%
Caroline	1,467	314	24	49	1,854	7,452	24.88%
Carroll	6,519	591	55	268	7,433	33,211	22.38%
Cecil	5,348	665	65	153	6,229	24,387	25.54%

Charles	11,453	1,380	176	289	13,298	50,344	26.41%
Dorchester	2,[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	10,375	34.03%
Frederick	11,130	761	105	345	12,341	51,932	23.76%
Garrett	1,120	177	6	56	1,359	5,003	27.16%
Harford	13,357	1,593	108	371	15,429	61,920	24.92%
Howard	18,615	3,149	339	593	22,696	85,350	26.59%
Kent	1,547	460	15	97	2,119	6,132	34.56%
Montgomery	72,267	6,067	1,180	4,273	83,827	321,759	26.05%
Prince George's	79,139	13,439	1,839	2,235	96,652	400,577	24.13%
Queen Anne's	2,882	454	57	110	3,503	11,013	31.81%
Saint Mary's	5,724	472	47	293	6,536	24,542	26.63%
Somerset	1,589	189	25	91	1,894	7,192	26.33%
Talbot	2,230	659	21	97	3,007	10,134	29.67%
Washington	5,993	272	36	329	6,630	31,233	21.23%
Wicomico	4,950	779	57	293	6,079	25,126	24.19%
Worcester	4,132	474	34	318	4,958	15,643	31.69%
Total Turnout By Party	427,187	54,762	7,123	16,320	505,392	1,944,620	25.99%

REPUBLICAN	Polls	EV	Prov	Abs	Total Voters	Eligible Voters	Turnout
Allegany	7,677	337	65	308	8,387	19,610	42.77%
Anne Arundel	35,002	3,794	409	981	40,186	119,358	33.67%
Baltimore City	3,968	350	128	227	4,673	31,662	14.75%
Baltimore County	35,197	2,818	352	1,131	39,496	126,946	31.11%
Calvert	5,831	438	97	207	6,573	22,150	29.67%
Caroline	2,371	323	34	55	2,783	7,385	37.68%
Carroll	18,077	1,179	86	503	19,845	53,672	36.97%
Cecil	6,078	580	48	125	6,829	22,544	30.29%
Charles	5,936	537	55	197	6,725	24,484	27.47%
Dorchester	2,564	275	26	95	2,960	6,935	42.68%
Frederick	18,196	784	139	361	19,480	57,249	34.03%
Garrett	4,581	555	36	226	5,398	11,253	47.97%
Harford	20,804	2,153	160	462	23,579	62,259	37.87%
Howard	13,346	1,311	173	381	15,211	54,585	27.87%
Kent	1,578	365	17	80	2,030	4,423	45.90%
Montgomery	22,761	1,259	317	1,223	25,560	122,513	20.86%
Prince George's	6,719	924	171	258	8,072	46,360	17.41%
Queen Anne's	4,987	552	85	132	5,756	13,762	41.83%
Saint Mary's	6,411	506	57	337	7,311	23,103	31.65%
Somerset	1,872	202	31	95	2,200	4,329	50.82%
Talbot	3,320	772	16	147	4,255	10,974	38.77%
Washington	12,517	547	60	502	13,626	36,672	37.16%
Wicomico	5,659	665	58	295	6,677	19,559	34.14%
Worcester	4,816	453	41	211	5,521	13,699	40.30%

Total Turnout By Party	250,268	21,887	2,659	8,539	283,133	915,506	30.93%

GREEN	Polls	EV	Prov	Abs	Total Voters	Eligible Voters	Turnout
Allegany	1	3	0	0	4	45	8.89%
Anne Arundel	0	0	7	0	7	0	
Baltimore City	0	0	11	0	11	0	
Baltimore County	0	0	9	0	9	0	
Calvert	5	0	1	1	7	119	5.88%
Caroline	0	0	1	0	1	0	
Carroll	0	0	0	0	0	0	
Cecil	6	0	0	0	6	141	4.26%
Charles	4	1	1	2	8	132	6.06%
Dorchester	0	0	0	0	0	0	
Frederick	15	2	1	0	18	356	5.06%
Garrett	0	0	1	0	1	0	
Harford	7	0	3	0	10	121	8.26%
Howard	17	2	1	1	21	442	4.75%
Kent	2	0	0	0	2	40	5.00%
Montgomery	66	5	2	4	77	1,426	5.40%
Prince George's	18	0	4	2	24	461	5.21%
Queen Anne's	0	0	0	0	0	0	
Saint Mary's	0	0	0	0	0	0	
Somerset	0	0	1	0	1	0	
Talbot	0	0	0	0	0	0	
Washington	8	1	0	0	9	220	4.09%
Wicomico	0	0	0	0	0	0	
Worcester	0	0	0	0	0	0	
Total Turnout By Party	149	14	43	10	216	3,503	6.17%

CONSTITUTION	Polls	EV	Prov	Abs	Total Voters	Eligible Voters	Turnout
Allegany	1	0	0	0	1	2	50.00%
Anne Arundel	0	0	4	0	4	0	
Baltimore City	0	0	0	0	0	0	
Baltimore County	0	0	3	0	3	0	
Calvert	0	0	0	0	0	10	
Caroline	0	0	0	0	0	0	
Carroll	0	0	0	0	0	0	
Cecil	5	0	0	0	5	21	23.81%
Charles	5	0	0	0	5	17	29.41%
Dorchester	0	0	0	0	0	0	
Frederick	4	0	0	0	4	30	13.33%
Garrett	0	0	0	0	0	0	

Harford	0	0	0	0	0	13	
Howard	3	0	0	0	3	37	10.81%
Kent	1	0	0	0	1	2	50.00%
Montgomery	9	0	0	3	12	56	21.43%
Prince George's	2	0	0	0	2	37	5.41%
Queen Anne's	0	0	0	0	0	0	
Saint Mary's	0	0	0	0	0	0	
Somerset	0	0	0	0	0	0	
Talbot	0	0	0	0	0	0	
Washington	2	0	0	0	2	20	10.00%
Wicomico	0	0	0	0	0	0	
Worcester	0	0	0	0	0	0	
Total Turnout By Party	32	1	7	3	43	245	17.55%

LIBERTARIAN	Polls	EV	Prov	Abs	Total Voters	Eligible Voters	Turnout
Allegany	5	2	0	1	8	48	16.67%
Anne Arundel	0	0	9	0	9	0	
Baltimore City	0	0	3	0	3	0	
Baltimore County	0	0	11	0	11	0	
Calvert	7	0	0	0	7	149	4.70%
Caroline	0	0	0	0	0	0	
Carroll	0	0	0	0	0	0	
Cecil	11	1	0	0	12	203	5.91%
Charles	8	1	1	1	11	193	5.70%
Dorchester	0	0	0	0	0	0	
Frederick	21	1	1	1	24	437	5.49%
Garrett	0	0	0	0	0	0	
Harford	14	1	0	0	15	233	6.44%
Howard	24	2	1	1	28	551	5.08%
Kent	2	1	0	0	3	34	8.82%
Montgomery	39	4	3	1	47	1,328	3.54%
Prince George's	19	5	8	1	33	510	6.47%
Queen Anne's	0	0	4	0	4	0	
Saint Mary's	0	0	1	0	1	0	
Somerset	0	0	0	0	0	0	
Talbot	0	0	0	0	0	0	
Washington	10	0	0	2	12	234	5.13%
Wicomico	0	0	1	0	1	0	
Worcester	0	0	0	0	0	0	
Total Turnout By Party	160	18	43	8	229	3,920	5.84%

UNAFFILIATED	Polls	EV	Prov	Abs	Total Voters	Eligible Voters	Turnout

Allegany	125	9	22	3	159	1,672	9.51%
Anne Arundel	0	0	0	0	0	0	
Baltimore City	0	0	371	0	371	0	
Baltimore County	0	0	631	0	631	0	
Calvert	230	19	33	8	290	9,806	2.96%
Caroline	0	0	37	0	37	0	
Carroll	0	0	66	0	66	0	
Cecil	380	35	18	0	433	11,206	3.86%
Charles	671	41	8	21	741	13,526	5.48%
Dorchester	0	0	8	0	8	0	
Frederick	1,311	63	53	30	1,457	26,395	5.52%
Garrett	0	0	17	0	17	0	
Harford	444	39	56	8	547	10,292	5.31%
Howard	1,113	143	87	29	1,372	33,817	4.06%
Kent	99	23	2	2	126	1,618	7.79%
Montgomery	3,437	230	234	227	4,128	121,640	3.39%
Prince George's	972	137	323	36	1,468	32,564	4.51%
Queen Anne's	0	0	57	0	57	0	
Saint Mary's	0	0	42	0	42	0	
Somerset	0	0	8	0	8	0	
Talbot	0	0	3	0	3	0	
Washington	554	13	18	21	606	14,291	4.25%
Wicomico	0	0	42	0	42	0	
Worcester	0	0	32	0	32	0	
Total Turnout By Party	9,336	752	2,833	385	13,106	276,797	4.73%

OTHER PARTIES	Polls	EV	Prov	Abs	Total Voters	Eligible Voters	Turnout
Allegany	20	3	1	1	25	153	16.34%
Anne Arundel	0	0	2	0	2	0	
Baltimore City	0	0	20	0	20	0	
Baltimore County	0	0	51	0	51	0	
Calvert	16	0	1	1	18	527	3.42%
Caroline	0	0	3	0	3	0	

Carroll	0	0	3	0	3	0	
Cecil	31	0	0	0	31	835	3.83%
Charles	34	2	0	1	37	586	6.31%
Dorchester	0	0	2	0	2	0	
Frederick	4	0	1	0	5	78	6.41%
Garrett	0	0	1	0	1	0	
Harford	17	4	4	0	25	313	7.99%
Howard	79	20	6	4	109	1,820	5.99%
Kent	13	7	0	0	20	133	15.04%
Montgomery	20	0	4	4	28	512	5.47%
Prince George's	308	36	105	8	455	18,209	2.50%
Queen Anne's	0	0	4	0	4	0	
Saint Mary's	0	0	2	0	2	0	
Somerset	0	0	1	0	1	0	
Talbot	0	0	3	0	3	0	
Washington	5	0	1	2	8	89	8.99%
Wicomico	0	0	5	0	5	0	
Worcestar	0	0	3	0	3	0	
Total Turnout By Party	541	76	223	22	862	23,255	3.71%
Total Voter Turnout	667,673	77,290	12,731	25,287	802,981	3,167,846	25.35%

Statewide

County	Polls	EV	Abs	Prov	Eligible Voters	Turnout
Allegany	7,816	659	343	87	42,398	20.96%
Anne Arundel	50,434	14,922	1,741	1,768	269,671	25.54%
Baltimore City	54,620	15,873	2,302	2,428	325,643	23.10%
Baltimore County	82,887	22,270	2,928	2,250	426,062	25.90%
Calvert	9,685	1,896	312	205	60,133	20.12%
Caroline	2,935	687	89	46	14,986	25.07%
Carroll	23,666	4,397	759	202	114,358	25.38%
Cecil	9,029	2,227	221	81	47,699	24.23%
Charles	17,643	3,775	478	276	99,857	22.20%
Dorchester	4,255	882	375	38	17,717	31.33%
Frederick	29,991	4,848	950	296	149,393	24.15%
Garrett	4,369	745	170	35	19,163	27.76%
Harford	27,531	6,262	719	290	158,858	21.91%
Howard	29,727	9,274	763	609	197,348	20.46%
Kent	2,428	827	102	13	10,645	31.66%
Montgomery	84,160	18,875	5,729	2,467	630,255	17.65%
Prince George's	69,917	21,959	2,212	2,955	510,012	19.03%
Queen Anne's	6,956	2,342	154	81	32,620	29.05%
Saint Mary's	9,248	1,533	384	93	64,247	17.52%
Somerset	2,263	540	101	51	11,473	25.76%
Talbot	5,489	2,226	221	70	21,905	36.55%
Washington	13,378	1,387	733	99	89,243	17.48%
Wicomico	7,549	1,936	406	162	46,922	21.43%
Worcester	5,201	1,224	299	83	31,792	21.41%
Totals	561,177	141,566	22,493	14,665	3,392,600	21.81%

Democrat

County	Polls	EV	Abs	Prov	Eligible Voters	Turnout
Allegany	2,745	276	149	25	15,196	21.03%
Anne Arundel	24,640	8,825	949	596	146,577	23.89%
Baltimore City	51,728	15,430	2,135	1,539	295,302	23.99%
Baltimore County	59,983	18,411	2,224	870	295,796	27.55%

Calvert	4,449	956	120	92	23,431	23.97%
Caroline	1,015	300	44	9	7,147	19.14%
Carroll	6,306	1,181	245	42	31,797	24.45%
Cecil	3,508	899	113	21	23,170	19.60%
Charles	12,294	2,956	334	185	58,325	27.04%
Dorchester	1,952	439	292	17	10,443	25.85%
Frederick	11,198	2,357	438	129	54,121	26.09%
Garrett	789	169	36	6	4,612	21.66%
Harford	11,795	3,173	389	121	62,978	24.55%
Howard	19,185	6,973	547	351	94,222	28.72%
Kent	1,299	538	62	8	6,078	31.38%
Montgomery	68,172	16,437	4,679	1,758	354,078	25.71%
Prince George's	64,983	21,123	2,030	1,717	442,639	20.30%
Queen Anne's	2,302	841	80	17	10,967	29.54%
Saint Mary's	4,024	734	207	43	25,084	19.96%
Somerset	919	273	63	11	6,735	18.80%
Talbot	1,888	797	77	22	9,968	27.93%
Washington	4,432	570	326	33	31,668	16.93%
Wicomico	3,349	1,027	254	45	26,054	17.94%
Worcester	2,173	587	158	28	14,931	19.73%
Totals	365,128	105,272	15,931	7,685	2,051,319	24.06%

Republican County	Polls	EV	Abs	Prov	Eligible Voters	Turnout
Allegany	4,782	366	187	31	20,133	26.65%
Anne Arundel	25,794	6,087	792	434	123,094	26.90%
Baltimore City	2,892	443	167	105	30,341	11.89%
Baltimore County	22,904	3,859	704	252	130,266	21.28%
Calvert	4,762	862	182	91	23,922	24.65%
Caroline	1,920	387	45	11	7,839	30.14%
Carroll	16,411	3,097	491	135	59,483	33.85%
Cecil	5,521	1,328	108	37	24,529	28.51%
Charles	4,307	646	128	52	24,301	21.12%
Dorchester	2,303	443	83	11	7,274	39.04%

Frederick	17,082	2,235	480	126	80,670	32.84%
Garrett	3,456	552	130	26	11,955	34.83%
Harford	14,937	2,952	331	123	68,418	26.81%
Howard	8,962	1,834	172	108	56,213	19.70%
Kent	1,129	289	40	4	4,567	32.01%
Montgomery	12,512	1,785	803	292	121,851	12.63%
Prince George's	4,167	724	160	106	43,545	11.84%
Queen Anne's	4,417	1,437	70	42	15,628	38.18%
Saint Mary's	4,864	751	157	36	25,594	22.69%
Somerset	1,344	267	38	19	4,738	35.20%
Talbot	3,569	1,415	144	27	11,312	46.57%
Washington	8,340	777	376	59	38,869	24.57%
Wicomico	4,200	909	154	37	20,868	25.40%
Worcester	2,984	632	139	26	14,785	25.57%
Totals	183,559	34,087	6,081	2,190	950,195	23.78%

Libertarian						
County	Polls	EV	Abs	Prov	Eligible Voters	Turnout
Allegany	27	2	1	1	191	16.23%
Anne Arundel	0	0	0	4	0	0.00%
Baltimore City	0	0	0	30	0	0.00%
Baltimore County	0	0	0	71	0	0.00%
Calvert	21	5	0	0	249	10.44%
Caroline	0	0	0	2	0	0.00%
Carroll	46	6	0	0	581	8.95%
Cecil	0	0	0	3	0	0.00%
Charles	34	4	2	1	318	12.89%
Dorchester	0	0	0	0	0	0.00%
Frederick	16	1	3	0	745	2.68%
Garrett	11	4	1	0	74	21.62%
Harford	40	11	3	0	703	7.68%
Howard	87	41	7	8	886	16.14%
Kent	0	0	0	0	0	0.00%
Montgomery	116	24	31	13	2,127	8.65%

Prince George's	101	21	3	138	323	81.42%
Queen Anne's	8	2	0	1	147	7.48%
Saint Mary's	19	1	1	0	303	6.93%
Somerset	0	0	0	1	0	0.00%
Talbot	1	1	0	2	15	26.67%
Washington	24	3	3	0	405	7.41%
Wicomico	0	0	0	8	0	0.00%
Worcester	5	0	0	0	46	10.87%
Totals	556	126	55	283	7,113	14.34%

Green County	Polls	EV	Abs	Prov	Eligible Voters	Turnout
Allegany	4	0	0	0	111	3.60%
Anne Arundel	0	0	0	11	0	0.00%
Baltimore City	0	0	0	27	0	0.00%
Baltimore County	0	0	0	13	0	0.00%
Calvert	4	3	0	1	134	5.97%
Caroline	0	0	0	0	0	0.00%
Carroll	14	3	0	0	271	6.27%
Cecil	0	0	0	0	0	0.00%
Charles	10	2	0	0	121	9.92%
Dorchester	0	0	0	0	0	0.00%
Frederick	24	4	1	1	394	7.61%
Garrett	2	1	0	0	37	8.11%
Harford	9	3	0	1	283	4.59%
Howard	28	8	1	2	489	7.98%
Kent	0	0	0	0	0	0.00%
Montgomery	50	14	17	5	1,528	5.63%
Prince George's	8	1	0	17	234	11.11%
Queen Anne's	1	1	0	0	52	3.85%
Saint Mary's	11	1	0	0	136	8.82%
Somerset	0	0	0	1	0	0.00%
Talbot	0	0	0	0	5	0.00%
Washington	12	1	0	0	233	5.58%

Wicomico	0	0	0	0	0	0.00%
Worcester	0	0	0	0	24	0.00%
Totals	177	42	19	79	4,052	7.82%

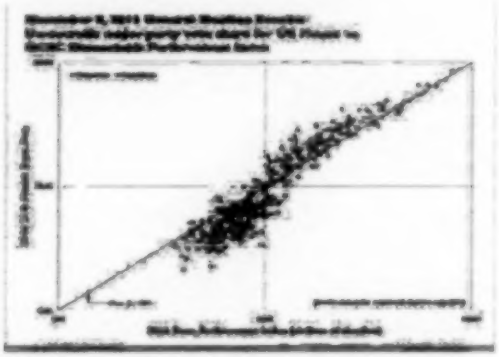
Unaffiliated						
County	Polls	EV	Abs	Prov	Eligible Voters	Turnout
Allegany	231	13	5	9	6,374	4.05%
Anne Arundel	0	0	0	719	0	0.00%
Baltimore City	0	0	0	697	0	0.00%
Baltimore County	0	0	0	973	0	0.00%
Calvert	428	65	10	21	11,912	4.40%
Caroline	0	0	0	22	0	0.00%
Carroll	843	104	23	25	21,278	4.68%
Cecil	0	0	0	17	0	0.00%
Charles	964	163	12	37	16,249	7.24%
Dorchester	0	0	0	10	0	0.00%
Frederick	1,655	250	25	40	33,286	5.92%
Garrett	100	15	2	3	2,297	5.22%
Harford	710	112	13	45	25,437	3.46%
Howard	1,378	377	29	132	43,243	4.43%
Kent	0	0	0	1	0	0.00%
Montgomery	3,194	591	168	386	147,038	2.95%
Prince George's	557	69	16	839	17,999	8.23%
Queen Anne's	220	59	4	20	5,837	5.19%
Saint Mary's	311	45	18	14	12,669	3.06%
Somerset	0	0	0	18	0	0.00%
Talbot	30	12	0	17	577	10.23%
Washington	546	33	25	7	17,744	3.44%
Wicomico	0	0	0	64	0	0.00%
Worcester	34	5	2	29	1,899	3.69%
Totals	11,201	1,913	352	4,145	383,859	4.84%

Other Parties						
County	Polls	EV	Abs	Prov	Eligible Voters	Turnout

Allegany	27	2	1	1	393	7.89%
Anne Arundel	0	0	0	4	0	0.00%
Baltimore City	0	0	0	30	0	0.00%
Baltimore County	0	0	0	71	0	0.00%
Calvert	21	5	0	0	485	5.36%
Caroline	0	0	0	2	0	0.00%
Carroll	46	6	0	0	948	5.49%
Cecil	0	0	0	3	0	0.00%
Charles	34	4	2	1	543	7.55%
Dorchester	0	0	0	0	0	0.00%
Frederick	16	1	3	0	177	11.30%
Garrett	11	4	1	0	188	8.51%
Harford	40	11	3	0	1,039	5.20%
Howard	87	41	7	8	2,295	6.23%
Kent	0	0	0	0	0	0.00%
Montgomery	116	24	31	13	3,633	5.06%
Prince George's	101	21	3	138	5,272	4.99%
Queen Anne's	8	2	0	1	189	5.82%
Saint Mary's	19	1	1	0	441	4.76%
Somerset	0	0	0	1	0	0.00%
Talbot	1	1	0	2	28	14.29%
Washington	24	3	3	0	324	9.26%
Wicomico	0	0	0	8	0	0.00%
Worcester	5	0	0	0	107	4.67%
Totals	556	126	55	283	16,062	6.35%

Monday Feb. 13, 2017

In 2016, Data Fundamentals Proved Accurate



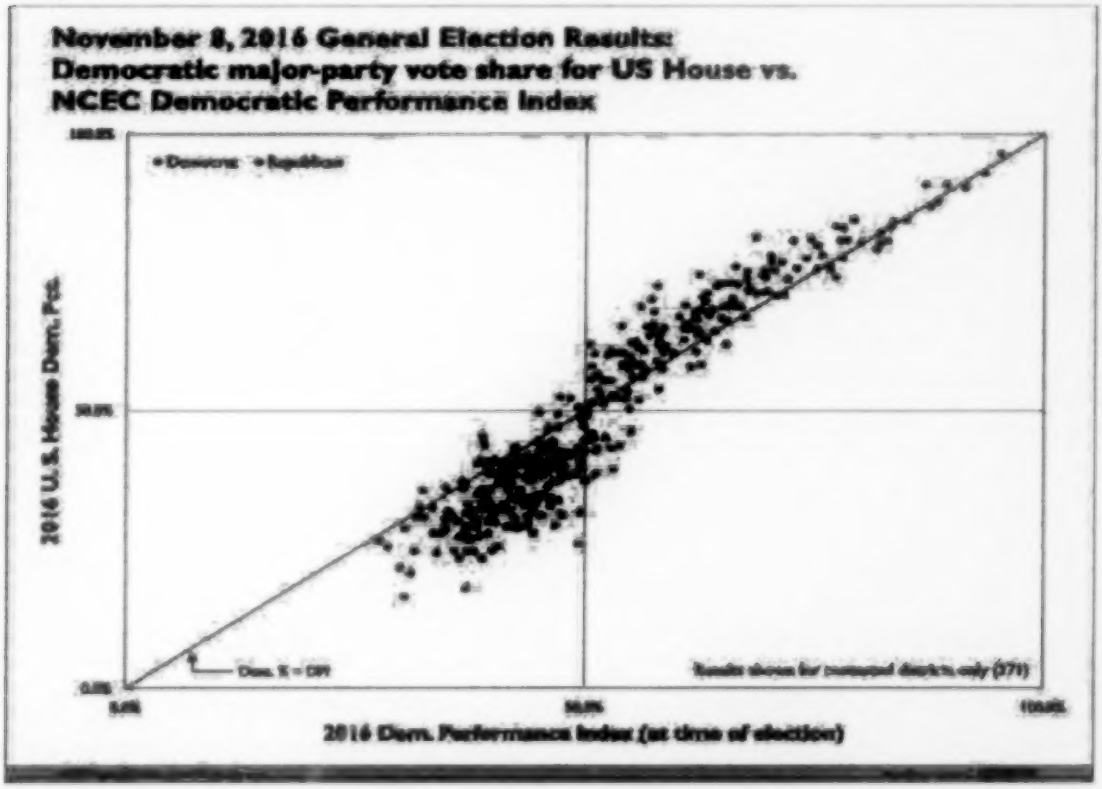
The NCEC's Democratic Performance Index is a granular, moving average of actual candidate performance. It should be no surprise that, on average, observed party performance correlates with future party performance more strongly than any other single measure.

According to CNN, Rep. Sean Patrick Maloney (D-N.Y.) has "...developed a new data model to replace the DPI, using 350 different data points." Models intended as leading indicators of candidate performance are regularly improved when they incorporate actual candidate performance. In fact, DPI itself commonly serves as a supporting data point for building the very types of sophisticated models Rep. Maloney refers to. Considering the diversity, educational attainment, and geography of an electorate is important and should be used, in combination, with a robust measure of the electorate's voting behavior—not in place of it.

The NCEC calculates DPI for every state at the precinct level—the most detailed level at which election results are recorded. DPI is not a speculative model trained on disparate data points nor should it be. The strength of DPI is that it is so closely anchored to direct measurement of what actually happened. It is most valuable as a measure of a district's relative partisanship. It is not intended to predict the outcome of an election, but rather to indicate competitiveness or lack thereof.

In the same article, Rep. Jim Himes (D-Conn.) disputed DPI's accurate measures of last year's congressional battleground. But nationally, Democrats won only four districts where DPI was below 50 percent. Two of these contests, MN-01 (DPI 49.9%) and MN-07 (DPI 47.3%), outperformed DPI as expected thanks to the long-time incumbency of the Democratic

candidates. And the other two districts correctly identified as close contests—NJ-05 (DPI 48.3%) and NV-03 (DPI 49.3%)—were subsequently targeted with well-resourced and well-run campaigns. Victories here demonstrate the successful identification of marginal contests and the judicious mobilization of campaign resources to effect change in favor of Democrats. And while DPI served as a good indicator for races where Democrats were more likely to lose, it correlated even more strongly in higher DPI areas where Democrats were more likely to win.



In the Washington Post, Paul Kane highlighted Minnesota's 2nd District as an area for scrutiny. The pre-election DPI for this district was 49.3 percent—an outstanding match to the major party performance of both Hillary Clinton (49.3%) and Angie Craig (49.0%) in the general election. Craig's 2-point loss narrowly trailed the Democratic Performance Index by 0.3 points. The race was competitive to the end, and choosing not to compete in a district like this in the future guarantees Democrats permanent minority status.

Stephanie Murphy's victory in Florida's 7th District was repeatedly heralded as a surprise Democratic win. But the Democratic Performance Index strongly suggested this was a toss-up district well within the reach of a competent campaign. Once the Florida redistricting lawsuit was finalized, DPI was re-tabulated for the new geography and increased from 45.6 to 50.8 percent under the reconfigured map. Again, this is where the Democratic Performance Index is most valuable—in measuring change and gauging the strengths of geographic units against one another. The DPI is not used by itself to make these decisions, but provides a grounded basis (grounded in actual candidate performance) from which to make informed judgements on voting behavior.

Pennsylvania's 8th District is another seat where the Democratic candidate underperformed. Democrat Steve Santarsiero lost by 9.0 points, but the baseline indicators were nevertheless sound. The pre-election DPI in this district was 50.6 percent which tracks closely with Hillary's 49.9 percent in the general election and President Obama 50.0 percent in 2012. Voters here are clearly open to supporting Democratic candidates in general, and this is exactly the type of suburban district that should be targeted if Democrats are ever going to regain control of the House.

It's true, Democrats underperformed in some rural districts last cycle, particularly in Iowa. But the rationale to compete there was sound, given that President Obama won three of the four districts in consecutive general elections. And in the case of Iowa's 1st District, every Democratic presidential candidate has carried it since 2000. President Obama won 56.9 percent of the vote there in 2012, surpassing average Democratic Performance by 1.9 points. This district clearly qualified as a top-tier target especially in an election year as volatile as 2016.

Some have suggested that the Democrats should focus less on rural districts, but any realistic look at the battleground shows that without winning some rural districts, there is virtually no way to build a coalition that reaches 218 seats. Considering the long odds presented by partisan gerrymandering, Democrats must continue to pursue an all-of-the-above strategy in districts where recent results suggest the possibility for success

Democratic Performance Index by itself tells only part of the story; it is always prudent to perform wider analysis. But in our search for better tools, we must always remain anchored in direct measures of reality.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

O. JOHN BENISEK, *et al.*,

Plaintiffs,

v. Case No. 13-cv-3233

LINDA H. LAMONE, *et al.*,

Defendants.

Second Supplemental Expert Report of Allan J. Lichtman
July 12, 2017

In this second supplemental report I respond to the supplemental declarations of Dr. Peter A. Morrison and Dr. Michael P. McDonald. Nothing in these supplemental declarations of plaintiffs' experts leads me to revise any of the analyses and findings of my prior reports in this litigation.

I. Supplemental Declaration of Dr. Peter A. Morrison

In his supplemental declaration, Dr. Morrison responds to only one of my criticisms of his prior reports. In my first supplemental report of June 2, 2017 I found that Dr. Morrison in his opening report had presented fundamentally flawed data on the percentage of split Census Places in CD6 under the 2001 and 2011 plans. I found that based upon the correction of his data that the difference in split Census Places in prior CD6 under Maryland's 2001 plan compared to splits in CD6 under the state's 2011 plan was not 48 percentage points as Dr. Morrison previously claimed, but a ***de minimis*** 4 percentage points, a difference of 44 percentage points and 92 percent (44/48). He does not question the serious errors in his prior report, but offers an alleged correction of those errors in his supplemental declaration.

My analysis of Dr. Morrison's new analyses in his supplemental declaration results in the following findings:

- Even accepting at face value Dr. Morrison's alleged corrections, he fails to explain why his new findings still sustain the conclusions of his opening report

- Dr. Morrison does not provide in his supplemental declaration a minor correction of his prior data. Rather, his alleged corrected data differs fundamentally from the prior data on which he has relied.

- Dr. Morrison's alleged corrections create new errors that result in serious flaws in his supplemental declaration and an overstatement of the difference in split Census Places in CD6 under the two plans that he analyzes.

- Dr. Morrison's count of split Census Places under the 2011 plan fails to consider inconsequential splits with either no population or minimal population.

After presenting his alleged corrected data, Dr. Morrison concludes that the difference between split Census Places in the 2001 and 2011 congressional plans is not 48 percentage points, but only 8 percentage points, for a decline of 40 percentage points and 83 percent (40/48).[1] He does not explain why this drastic change in results still sustains his earlier finding of a "smoking gun" result indicative of intentional discrimination. Contrary to standard practice in social science, he provides no analyses of what level of difference in the two plans would be necessary to confirm this earlier conclusion.

As indicated below, Dr. Morrison in his supplemental report simply repeats without qualification or explanation the exact statement he made in his opening report linking differences in split Census Places to intent. The only change is that he now plugs in his new results indicating an 8-percentage point difference in split Census Places between the 2001 and 2011 plan, rather than the 48-percentage point difference from his opening report.

Morrison Opening Expert Report, paragraph 145, page 68

"The post-redistricting increase in non-intact Census places (from 11% to 59% of all places) is a "smoking gun" that exposes motives beyond simply rebalancing total population."

Morrison Opening Expert Report, paragraph 9, page 3

"The post-redistricting increase in non-intact census places (from 3% to 11% of all places) is a "smoking gun" that exposes motives beyond simply rebalancing the total population."

In addition, both statements falsely presume that the only legitimate motivation for a new redistricting plan is "rebalancing the total population," when many other considerations enter into the creation of any redistricting plan. For example, Dr. Morrison indicated in his Fletcher Declaration that one legitimate consideration would be the creation of communities of interest based on patterns of commuting and transportation.[2] The Fletcher Plan that Dr. Morrison defends does not simply "rebalance population," but drastically alters the configuration of Maryland's 2001 districts.

Dr. Morrison does not present minor corrections of his opening report in his supplemental declaration. Rather, as demonstrated in Table 1 (all tables are included in the

[1] Unnumbered Table on page 2 of Dr. Morrison's Supplemental Declaration.
[2] Morrison Declaration, *Fletcher v. Lamone*, 11-cv-03220 (D. Md. Dec. 7, 2011) (ECF No. 43-18).

Appendix to this report, below), the new data he presents on Census Places in CD6 under the 2001 and 2011 state congressional plans differs by many orders of magnitude from the data on which he relied for his conclusion in his opening report. As indicated in Table 1, in his supplemental declaration, Morrison identified 135 Census Places as falling wholly or partially within CD6 under the 2001 plan, compared to 35 Census Places that he identified in his opening report. This amounts to additional 100 Census Places, for *an increase of 286 percent*. In his supplemental declaration, Morrison identified 122 Census Places as falling wholly or partially within CD6 under the 2011 plan, compared to 22 Census Places that he identified in his opening report. This amounts again to an additional 100 Census Places, but it results in *a much larger percentage increase of 455 percent*.

As indicated in Table 2, these corrections account for the reduction in the difference in split Census Places under the two plans from 48 percentage points in his opening report to 8 percentage points in his supplemental declaration. His 286-percent correction in the number of Census Places in DC6 under the 2001 plan reduces the percentage of split precincts from 11 percent to 3 percent. His much larger 455 percent correction in the number of Census Places in CD6 under the 2011 plan, results in far more substantial reduction in the percentage of split Census Places *from 59 percent to 11 percent*. These two corrections explain the reduction in the difference in split Census Places from 48 percent to just 8 percent.

Dr. Morrison purports to have presented in his supplemental report the correct number of Census Places in CD6 under the two plans. Consistent with his opening report, however, he provides no citations or sources for his corrected counts. These counts are still erroneous based on the U.S. Census data that lists the number of Census Places in Maryland and identifies the congressional districts in which they are wholly or partially contained under the 2001 and 2011 Maryland congressional plans.

As indicated in the Table in his supplemental declaration, Dr. Morrison identified 135 Census Places as within CD6 under the 2001 plan, compared to the 75 according to Census data. Dr. Morrison does not identify the source of the data, but he purports to use data from the 111th Congress while the 108th Congress is the data available from the Census on its public website. Therefore, the source of his data for the 111th Congress is unclear and it is also unclear whether he is using the definitions of census designated places under the 2000 Census or whether he is using definitions of census designated places that would be used in the 2010 Census. The boundaries of census designated places change over time. *See* U.S. Census Bureau, "Geographic Boundary Change Notes, Maryland," https://www.census.gov/geo/reference/bndrychange/changenotedisplay.php (last accessed July 11, 2017). The 108th Congress is therefore the appropriate comparator as the version of the data that is publicly available, it contains the congressional district boundaries for the 2001 plan, and the census designated place definitions closest in time to the ones that would have been known to the 2001 map-drawers. Data from a later congress that Dr. Morrison purports to use may not match the Census Places at the time of the redistricting and therefore is misleading.

By using non-public information related to the 111th Congress without specifying the date of the census designated place definitions in his supplemental declaration, Dr. Morrison identified 135 Census places as within CD6, compared to 75 according to Census data. He thus overstates the number of 2001 Census Places in CD6 by 60, for *an increase of 80 percent.* In his supplemental declaration, Morrison identified 122 Census Places as within CD6 under the 2011 plan, compared to 148 according to Census data. Thus, for the 2011 plan he understates not overstates the number of Census Places by 26, *for a decrease of 18 percent.*

As indicated in Table 4, Dr. Morrison's *overstatement* of the number of Census Places in CD6 under the 2001 plan in his supplemental declaration, results in an *understatement* of the percentage of split Census Places of 3 percent, compared to a corrected 5 percent, for *an increase of 2 percent.* In contrast, Dr. Morrison's *understatement* of the number of Census Places in CD6 under the 2011 plan in his supplemental declaration, results in an *overstatement* of the percentage of split Census Places of 11 percent, compared to a corrected 9 percent, for *a decrease of 2 percent.* Thus, his opposite and compounding errors result in an overstatement of the difference in split precincts of 8 percentage points, compared to a correct de minimis difference of just 4 percentage points, the percentage difference that I previously calculated and report on page 3 of my June 2, 2017 supplemental report.

I have included as an addendum to this report a download of the U.S. Census reports on the Maryland Census Places identified with the congressional districts in the 2001 and 2011 plans in which they are wholly or partially included. I have marked on each page of the downloads, the Census Places wholly or partially included in CD6 and indicated on each page a running tally of the number of such Places.

Finally, Dr. Morrison includes in his count of split Census Places in the 2011 plan places that are not split in any consequential way. That is, no persons or a minimal number of persons are included in one side of the split. For example, the most important splits that he identified are the only cities split between CD6 and CD8 in the 2011 plan: Frederick and Rockville (no district other than CD8 borders CD6). However, the recent declaration of Shelly Aprill of the Planning Data Analysis Unit of the Maryland Department of Planning, indicates that the CD6 side of the Frederick City split contained no population and the CD8 side of the Rockville City split contained only 4 persons. [3] Just the elimination of these two splits from Dr. Morrison's tally of 13 split Census Places in CD6 under the 2011 plan would reduce the percentage of split Census Places from 9 percent to 7 percent, just 2 percentage points more than the percentage of CD6 splits under the 2001 plan.

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[3] Declaration of Shelly Aprill, June 29, 2017, p. 2.

II. Supplemental Declaration of Dr. Michael P. McDonald

There is little that is new in Dr. McDonald's supplemental declaration. In addition to examining possible alternative plans for Maryland's 2011 congressional districts, he references my report only to challenge my analysis that CD6 under the 2011 congressional plan is competitive district that tilts Democratic. Instead he argues that CD6 under the 2011 plan is a "safe" Democratic district. In analyzing Dr. McDonald's supplemental declaration, I have reached the following findings.

- Dr. McDonald continues to reason mechanically from effect to cause with no methodology for establishing the intent of Maryland's decision-makers.

- Dr. McDonald's own account of alternative plans considered or not considered by decision-makers contradicts his conclusions about intent.

- Dr. McDonald is incorrect in his claim that CD6 under the 2011 congressional plan is a safe Democratic district.

Dr. McDonald's report attempts to establish what is not in dispute, that Maryland's decision-makers sought to create a Sixth Congressional District that was more favorable to Democrats than in the prior plan. He then mechanically reasons from this fact that Maryland's decision-makers intended to retaliate against Republicans for their alleged political expression. However, Dr. McDonald continues to provide no methodology for assessing intent based on the *Arlington Heights* guidelines or any other framework. He simply stands de facto by his earlier claim that he was not asked to analyze the *Arlington Heights* factors.

Dr. McDonald fails to consider any other purposes behind the configuration of CD6 in 2011 other than partisanship. Many of those purposes are explained in my opening and supplemental reports and are not reexamined in Dr. McDonald's supplemental declaration. Rather than reiterating these purposes I instead analyze some examples from Dr. McDonald's supplemental declaration that contradict his conclusion about the discriminatory intent of Maryland's decision-makers.

Dr. McDonald notes on page 4 of his declaration that two plans, Congressional Option 1 and Congressional Option 2 appeared in Senate President Mike Miller's Maptitude software on October 3, 2011. Option 1 had a Democratic Performance Index of 50.5 percent and Option 2 Index of 51.36 percent, for a difference of 0.86 percentage points. Dr. McDonald presumes without analysis that Miller and the Democrats used Option 2 as the basis for their final plan because it had this slightly higher Democratic Performance Index. Examination of the two maps, however, provides alternative explanations that Dr. McDonald fails even to consider in his supplemental declaration. First, the maps demonstrate that Option 2 provides a far more compact CD6 than does Option 1. Second, Option 2 unlike Option 1 comports with the decision-makers objective of creating an I-270 Corridor district.

Dr. McDonald notes on page 5 of his supplemental declaration that initial fine-tuning of Option 2 raised the Democratic performance of CD6 from 51.36 percent to 52.81 percent. Much later in his report on page 7 he adds that the final map reduced the Democratic performance of

CD6 to 52.61 percent. Although this reduction of 0.20 percentage points may seem like a minimal reduction, Dr. McDonald relies on even lesser differences to sustain his claims about legislative intent. In discussing the abandonment of what he terms Option 4 on October 16, 2011, shortly before the General Assembly voted to approve the plan, Dr. McDonald states on page 7, "Although I cannot know why this plan was abandoned, a plausible explanation is that further lowering of the Democratic performance of the Sixth Congressional District was deemed unacceptable." In fact, as Dr. McDonald data indicates Option 4 reduced the Democratic performance from 51.61 to 51.58, a reduction of 0.03 percentage points.

Dr. McDonald chastises Maryland's decision-makers for failing to consider what he terms the "FLHPac Plan," that he says, "has four Democratic and four Republican Congressional Districts." McDonald Supplement at 7. Dr. McDonald claims that the failure to consider this plan is another indicium of intent to discriminate against Republicans.[4] Yet Dr. McDonald notes that this "appears in President Miller's software on October 17, 2011," which is after the governor has already released his plan and just 3 days before the final vote in the General Assembly. McDonald Supplement at 7. Moreover, a plan with 50 percent Republican districts in a state that is 60%+ Democratic would represent an extreme political gerrymander in favor of Republicans. As documented in my opening report, in 60%+ one-party dominant states of roughly comparable population to Maryland, the dominant party never once secured less than 75 percent of the congressional seats under either the 2001 or 2011 congressional plans. The average percent of seats won by the dominant party was 87 percent under the 2001 plans and 91 percent under the 2011 plans (Tables 17, 18, pp. 45-46, Lichtman Report, May 8, 2017).

Finally, Dr. McDonald omits from consideration a much more plausible alternative for Maryland decision-makers than a 4-4 plan: an 8-0 plan that gave Democrats an advantage in all 8 congressional districts. According to the declaration President Miller's plan drawer and analyst staffer, Yaakov "Jake" Weissmann, "At one point, our group considered a map that would have created the possibility that eight Democratic and zero Republican congressional representatives could be elected, but this map was not seriously considered for adoption."[5] Dr. McDonald includes no mention of this testimony in his supplemental report. If the Democrats' intent was to retaliate against Republicans, they easily have considered and drawn 8-0 Democratic plan as explained in my first supplemental report and the declaration of Bill Cooper.

With respect to the partisan performance of CD6, Dr. McDonald challenges my finding that the 2011 decision-makers in Maryland created a competitive CD6 that tilts Democratic. Instead he claims they created "a safe district for Democrats." He justifies this claim by asserting for the first time in his reports that a competitive district is not one with a range of political performance, but is a district that is 50/50 in its Democratic and Republican performance. In his words, a "competitive 50% democratic performant district."

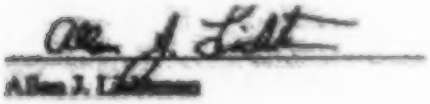
This new claim runs counter to how every independent rating organization such as the Rothenberg and Cook political reports and the *New York Times* define a competitive district, which includes a range of political performance. The Cook Political Report for 2012, for example, defines

[4] Dr. McDonald also presents several alternative plans drawn by various groups to demonstrate the undisputed point that CD6 could have been drawn more favorably for Republicans.
[5] Declaration of Yaakov "Jake" Weissmann, June 29, 2017, p. 12.

a strongly Democratic or Republican (e.g., relatively safe district) as one with a partisan voter index of +5 Democratic or + 5 Republican, respectively. It defines its most competitive category of districts ("Barely Democratic" or "Barely Republican") as districts with a partisan voter index that ranges from "Democratic Even to D+2" and "Republican Even to R+2," respectively. It rates CD6 in Maryland as Democratic +2 on its partisan voter index, placing in the category of the most competitive of districts.[6]

Dr. Morrison's most recent scholarship also contradicts his claim that a competitive district must be 50/50 Republican or Democratic. In an article just published on April 20, 2017 he explicitly embraces a 45 percent to 55 percent competitiveness range based on party performance in prior presidential elections: "We use a simple statistic to score competitive districts: the number of districts with a two-party 2008 presidential vote *within a .45 to .55 range*. This range is arbitrary but has foundation in prior research (McDonald, 2006b; Swain, Borrelli, & Reed, 1998)."[7]

Date: July 12, 2017



Allen J. Lichtman

[6] David Wasserman "Introducing the 2012 Cook Political Report Partisan Voter Index," October 11, 2012, pp. 2, 8.
[7] [7] Micah Altman and Michael P. McDonald, "Redistricting by Formula: An Ohio Reform Experiment," *American Politics Research* (2017), p. 10. See also, the analysis of competitiveness on page 7 of my first supplemental report of June 2, 2017.

APPENDIX: STATISTICAL TABLES

TABLE 1
DATA IN MORRISON OPENING REPORT AND COMPARED TO DATA IN SUPPLEMENTAL DECLARATION

Number of Census Places in CD6 in Maryland's 2001 Congressional Plan			
Morrison Supplemental Declaration	**Morrison Opening Report**	**Difference in Number**	**Difference in Percent**
100	35	100	+286%
Number of Census Places in CD6 in Maryland's 2011 Congressional Plan			
Morrison Supplemental Declaration	**Morrison Opening Report**	**Difference in Number**	**Difference in Percent**
122	22	100	+455%
Sources: Morrison Opening Report, Table 3, p. 67; Morrison Supplemental Declaration, Unnumbered Table, p 3.			

TABLE 2
THE PERCENTAGE OF SPLIT PRECINCTS IN THE 2001 AND 2011 CONGRESSIONAL PLANS, MORRISON SUPPLEMENTAL DECLARATION COMPARED TO CORRECT DATA

Morrison Opening Report						
# of Census Places 2001 Plan	# of Split Places 2001 Plan	% of Split Places 2001 Plan	# of Census Place 2011 Plan	# of Split Places 2011 Plan	% of Split Places 2011 Plan	Difference In Percentage Points
35	4	11%	22	13	59%	+48%
Morrison Supplemental Declaration						
# of Census Places 2011 Plan	# of Split Places 2001 Plan	% of Split Places 2001 Plan	# of Census Place 2011 Plan	# of Split Places 2011 Plan	% of Split Places 2011 Plan	Difference In Percentage Points
135	4	3%	122	13	11%	+8%

Sources: Morrison Opening Report, Table 3, p. 67; Morrison Supplemental Declaration, Unnumbered Table, p 3.

TABLE 3
DATA IN MORRISON SUPPLEMENTAL DECLARATION COMPARED TO CORRECTED DATA

Number of Census Places in CD6 in Maryland's 2001 Congressional Plan			
Data From Census Report	**Data in Morrison Supplemental Declaration**	**Difference in Number**	**Difference in Percent**
75	135	**60**	**+80%**
Number of Census Places in CD6 in Maryland's 2011 Congressional Plan			
Data From Census Report	**Data in Morrison Supplemental Declaration**	**Difference in Number**	**Difference in Percent**
148	122	**26**	**-18%**
Sources: Morrison Supplemental Declaration, Unnumbered Table, p 3; MARYLAND CONGRESSIONAL DISTRICTS BY PLACE," 108th Congress, https://www2.census.gov/geo/relfiles/cd108th/MD/plc_c8_24.txt; ; MARYLAND CONGRESSIONAL DISTRICTS BY PLACE," 113th Congress, https://www2.census.gov/geo/relfiles/cdsld13/24/pl_cd_24.txt.			

3

TABLE 4
PERCENT OF SPLIT CENSUS PLACES: DATA IN MORRISON SUPPLEMENTAL DECLARATION COMPARED TO CORRECTED DATA

Data in Morrison Supp. Declaration 2001 Plan		Corrected Data 2001 Plan		Comparison
# of Census Places	**% of Split Census Places (4/135)**	**# of Census Places**	**% of Split Census Places (4/75)**	**Difference**
135	3%	75	5%	+2%
# of Census Places	**% of Split Census Places (13/122)**	**# of Census Places**	**% of Split Census Places (13/147)**	**Difference**
122	11%	147	9%	-2%
Sources: Morrison Supplemental Declaration, Unnumbered Table, p 3; MARYLAND CONGRESSIONAL DISTRICTS BY PLACE," 108th Congress, https://www2.census.gov/geo/relfiles/cd108th/MD/plc_c8_24.txt; ; MARYLAND CONGRESSIONAL DISTRICTS BY PLACE," 113th Congress, https://www2.census.gov/geo/relfiles/cuisld13/24/pl_cd_24.txt.				

ADDENDUM TO LICHTMAN SECOND SUPPLEMENTAL REPORT OF JULY 13, 2017

DOWNLOAD OF US CENSUS REPORTS ON MARYLAND CENSUS PLACES FOR THE 2001 AND 2011 CONGRESSIONAL PLANS INDICATING THE CONGRESSIONAL DISTRICTS IN WHICH PLACES ARE WHOLLY OR PARTIALLY INCLUDED.

PLACES WHOLLY OR PARTIALLY INCLUDED IN CD6 ARE MARKED WITH A BLACK LINE. EACH PAGE INCLUDES A RUNNING OF MARKED PLACES.

CENSUS REPORT FOR 2001 MARYLAND CONGRESSIONAL PLAN

MARYLAND CONGRESSIONAL DISTRICTS BY PLACES

Place	County	Congressional District
Aberdeen city	Harford	2
Aberdeen Proving Ground CDP	Harford	2
Accident town	Garrett	6
Accokeek CDP	Prince George's	5
Adelphi CDP	Prince George's	4,5,8
Algonquin CDP	Dorchester	1
Andrews AFB CDP	Prince George's	4,5
Annapolis city	Anne Arundel	3
Arbutus CDP	Baltimore	3
Arden-on-the-Severn CDP	Anne Arundel	1
Arnold CDP	Anne Arundel	1
Ashton-Sandy Spring CDP	Montgomery	4
Aspen Hill CDP	Montgomery	4,8
Ballenger Creek CDP	Frederick	6
Baltimore city	Baltimore city	2,3,7
Barclay town	Queen Anne's	1
Barnesville town	Montgomery	8
Barton town	Allegany	6
Bel Air town	Harford	1
Bel Air North CDP	Harford	1,6
Bel Air South CDP	Harford	1,2
Beltsville CDP	Prince George's	5
Bennsville CDP	Charles	5
Berlin town	Worcester	1
Berwyn Heights town	Prince George's	5
Bethesda CDP	Montgomery	8
Betterton town	Kent	1
Bladensburg town	Prince George's	4,8
Boonsboro town	Washington	6
Bowie city	Prince George's	4,5
Bowleys Quarters CDP	Baltimore	2
Braddock Heights CDP	Frederick	6
Brandywine CDP	Prince George's	5
Brentwood town	Prince George's	8
Brookeville town	Montgomery	4
Brooklyn Park CDP	Anne Arundel	2
Brookmont CDP	Montgomery	8
Brookview town	Dorchester	1
Brunswick city	Frederick	6
Bryans Road CDP	Charles	5
Burkittsville town	Frederick	6
Burtonsville CDP	Montgomery	4
Cabin John CDP	Montgomery	8
California CDP	St. Mary's	5
Calvert Beach-Long Beach CDP	Calvert	5
Calverton CDP	Montgomery	4
	Prince George's	5
Cambridge city	Dorchester	1
Camp Springs CDP	Prince George's	4,5
Cape St. Claire CDP	Anne Arundel	1
Capitol Heights town	Prince George's	4
Carmody Hills-Pepper Mill Village CDP	Prince George's	4
Carney CDP	Baltimore	1,2
Catonsville CDP	Baltimore	7
Cavetown CDP	Washington	6
Cecilton town	Cecil	1
Centreville town	Queen Anne's	1
Chance CDP	Somerset	1
Charlestown town	Cecil	1
Charlotte Hall CDP	St. Mary's	5

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Chesapeake Ranch Estates	Calvert	5
Chesapeake City town	Cecil	1
Chesapeake Ranch Estates-Drum Point CDP	Calvert	5
Chester CDP	Queen Anne's	1
Chestertown town	Kent	1
Cheverly town	Prince George's	4
Chevy Chase town	Montgomery	8
Chevy Chase CDP	Montgomery	8
Chevy Chase Section Five village	Montgomery	8
Chevy Chase Section Three village	Montgomery	8
Chevy Chase View town	Montgomery	8
Chevy Chase Village town	Montgomery	8
Chewsville CDP	Washington	6
Chillum CDP	Prince George's	4,8
Church Creek town	Dorchester	1
Church Hill town	Queen Anne's	1
Clarksburg CDP	Montgomery	4
Clear Spring town	Washington	6
Clinton CDP	Prince George's	5
Clover Hill CDP	Frederick	6
Cloverly CDP	Montgomery	4,8
Cockeysville CDP	Baltimore	1,2,6
Colesville CDP	Montgomery	8
College Park city	Prince George's	5
Colmar Manor town	Prince George's	8
Columbia CDP	Howard	3,7
Coral Hills CDP	Prince George's	4
Cordova CDP	Talbot	1
Cottage City town	Prince George's	8
Cresaptown-Bel Air CDP	Allegany	6
Crisfield city	Somerset	1
Crofton CDP	Anne Arundel	3
Crownsville CDP	Anne Arundel	1,3
Cumberland city	Allegany	6
Damascus CDP	Montgomery	6
Dames Quarter CDP	Somerset	1
Darnestown CDP	Montgomery	8
Deale CDP	Anne Arundel	5
Deal Island CDP	Somerset	1
Deer Park town	Garrett	6
Delmar town	Wicomico	1
Denton town	Caroline	1
Discovery-Spring Garden CDP	Frederick	6
District Heights city	Prince George's	4
Dundalk CDP	Baltimore	2
Dunkirk CDP	Calvert	5
Eagle Harbor town	Prince George's	5
East New Market town	Dorchester	1
Easton town	Talbot	1
East Riverdale CDP	Prince George's	4,5
Eden CDP	Somerset	1
Edgemere CDP	Baltimore	2
Edgewood CDP	Harford	2
Edmonston town	Prince George's	4,5
Eldersburg CDP	Carroll	6
Eldorado town	Dorchester	1
Elkridge CDP	Howard	3
Elkton town	Cecil	1
Ellicott City CDP	Howard	3,7
Emmitsburg town	Frederick	6
Essex CDP	Baltimore	2
Fairland CDP	Montgomery	4
Fairmount CDP	Somerset	1
Fairmount Heights town	Prince George's	4
Fallston CDP	Harford	1

Federalsburg town	Caroline	1
Ferndale CDP	Anne Arundel	2,3
Forest Glen CDP	Montgomery	8
Forest Heights town	Prince George's	4
Forestville CDP	Prince George's	4
Fort Meade CDP	Anne Arundel	2,3
Fort Ritchie CDP	Washington	6
Fort Washington CDP	Prince George's	4,5
Fountainhead-Orchard Hills CDP	Washington	6
Frederick city	Frederick	6
Frenchtown-Rumbly CDP	Somerset	1
Friendly CDP	Prince George's	4,5
Friendship Village CDP	Montgomery	8
Friendsville town	Garrett	6
Frostburg city	Allegany	6
Fruitland city	Wicomico	1
Funkstown town	Washington	6
Gaithersburg city	Montgomery	4,8
Galena town	Kent	1
Galestown town	Dorchester	1
Garrett Park town	Montgomery	8
Garrison CDP	Baltimore	3
Germantown CDP	Montgomery	4,8
Girdletree CDP	Worcester	1
Glenarden city	Prince George's	4
Glen Burnie CDP	Anne Arundel	2,3
Glen Echo town	Montgomery	8
Glenn Dale CDP	Prince George's	4,5
Goddard CDP	Prince George's	5
Golden Beach CDP	St. Mary's	5
Goldsboro town	Caroline	1
Grantsville town	Garrett	6
Gresonville CDP	Queen Anne's	1
Greater Landover CDP	Prince George's	4
Greater Upper Marlboro CDP	Prince George's	4,5
Greenbelt city	Prince George's	5
Green Haven CDP	Anne Arundel	2
Greensboro town	Caroline	1
Green Valley CDP	Frederick	6
Hagerstown city	Washington	6
Halfway CDP	Washington	6
Hampstead town	Baltimore	6
	Carroll	6
Hampton CDP	Baltimore	1,2
Hancock town	Washington	6
Havre de Grace city	Harford	2
Hebron town	Wicomico	1
Henderson town	Caroline	1
Herald Harbor CDP	Anne Arundel	3
Highfield-Cascade CDP	Washington	6
Highland Beach town	Anne Arundel	3
Hillandale CDP	Montgomery	4
	Prince George's	5
Hillcrest Heights CDP	Prince George's	4
Hillsboro town	Caroline	1
Hillsmere Shores CDP	Anne Arundel	3
Hughesville CDP	Charles	5
Huntingtown CDP	Calvert	5
Hurlock town	Dorchester	1
Hyattsville city	Prince George's	4,5,8
Indian Head town	Charles	5
Jarrettsville CDP	Harford	6
Jessup CDP	Anne Arundel	3
	Howard	3
Joppatowne CDP	Harford	1,2

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Keedysville town	Washington	6
Kemp Mill CDP	Montgomery	8
Kensington town	Montgomery	8
Kent Narrows CDP	Queen Anne's	1
Kettering CDP	Prince George's	4
Kingstown CDP	Queen Anne's	1
Kingsville CDP	Baltimore	1
Kitzmiller town	Garrett	6
Lake Arbor CDP	Prince George's	4
Lake Shore CDP	Anne Arundel	1,3
Landover Hills town	Prince George's	4
Langley Park CDP	Prince George's	4,8
Lanham-Seabrook CDP	Prince George's	4,5
Lansdowne-Baltimore Highlands CDP	Baltimore	3
La Plata town	Charles	5
Largo CDP	Prince George's	4
Laurel city	Prince George's	5
La Vale CDP	Allegany	6
Laytonsville town	Montgomery	4
Leitersburg CDP	Washington	6
Leonardtown town	St. Mary's	5
Lexington Park CDP	St. Mary's	5
Linganore-Bartonsville CDP	Frederick	6
Linthicum CDP	Anne Arundel	3
Lochearn CDP	Baltimore	2,3,7
Lock Lynn Heights town	Garrett	6
Lonaconing town	Allegany	6
Londontowne CDP	Anne Arundel	5
Luke town	Allegany	6
Lusby CDP	Calvert	5
Lutherville-Timonium CDP	Baltimore	2
Manchester town	Carroll	6
Mardela Springs town	Wicomico	1
Marlow Heights CDP	Prince George's	4
Marlton CDP	Prince George's	5
Martin's Additions village	Montgomery	8
Marydel town	Caroline	1
Maryland City CDP	Anne Arundel	3
Maugansville CDP	Washington	6
Mayo CDP	Anne Arundel	5
Mays Chapel CDP	Baltimore	1-3
Middle River CDP	Baltimore	2
Middletown town	Frederick	6
Midland town	Allegany	6
Milford Mill CDP	Baltimore	2,7
Millington town	Kent	1
	Queen Anne's	1
Mitchellville CDP	Prince George's	4
Montgomery Village CDP	Montgomery	4,8
Morningside town	Prince George's	4
Mount Aetna CDP	Washington	6
Mountain Lake Park town	Garrett	6
Mount Airy town	Carroll	6
	Frederick	6
Mount Lena CDP	Washington	6
Mount Rainier city	Prince George's	8
Mount Vernon CDP	Somerset	1
Myersville town	Frederick	6
Naval Academy CDP	Anne Arundel	3
Newark CDP	Worcester	1
New Carrollton city	Prince George's	4,5
New Market town	Frederick	6
New Windsor town	Carroll	6
North Beach town	Calvert	5
North Bethesda CDP	Montgomery	8

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North Brentwood town	Prince George's	4
North Chevy Chase village	Montgomery	8
North East town	Cecil	1
North Kensington CDP	Montgomery	8
North Laurel CDP	Howard	7
North Potomac CDP	Montgomery	8
Oakland town	Garrett	6
Ocean City town	Worcester	1
Ocean Pines CDP	Worcester	1
Odenton CDP	Anne Arundel	1-3
Olney CDP	Montgomery	4
Overlea CDP	Baltimore	2,3
Owings CDP	Calvert	5
Owings Mills CDP	Baltimore	2,3
Oxford town	Talbot	1
Oxon Hill-Glassmanor CDP	Prince George's	4
Paramount-Long Meadow CDP	Washington	6
Parkville CDP	Baltimore	2,3
Parole CDP	Anne Arundel	3
Pasadena CDP	Anne Arundel	1-3
Perry Hall CDP	Baltimore	1,2
Perryman CDP	Harford	2
Perryville town	Cecil	1
Pikesville CDP	Baltimore	2,3
Pittsville town	Wicomico	1
Pleasant Hills CDP	Harford	1
Pocomoke City city	Worcester	1
Poolesville town	Montgomery	8
Port Deposit town	Cecil	1
Port Tobacco Village town	Charles	5
Potomac CDP	Montgomery	8
Potomac Heights CDP	Charles	5
Preston town	Caroline	1
Prince Frederick CDP	Calvert	5
Princess Anne town	Somerset	1
Pumphrey CDP	Anne Arundel	2,3
Queen Anne town	Queen Anne's	1
	Talbot	1
Queenstown town	Queen Anne's	1
Randallstown CDP	Baltimore	2,3,7
Redland CDP	Montgomery	4,8
Reisterstown CDP	Baltimore	2,3,6
Ridgely town	Caroline	1
Rising Sun town	Cecil	1
Riva CDP	Anne Arundel	5
Riverdale Park town	Prince George's	4,5
Riverside CDP	Harford	2
Riviera Beach CDP	Anne Arundel	2
Robinwood CDP	Washington	6
Rock Hall town	Kent	1
Rockville city	Montgomery	4,8
Rohrersville CDP	Washington	6
Rosaryville CDP	Prince George's	5
Rosedale CDP	Baltimore	2,3
Rosemont village	Frederick	6
Rossmoor CDP	Montgomery	8
Rossville CDP	Baltimore	2,3
St. Charles CDP	Charles	5
St. James CDP	Washington	6
St. Leonard CDP	Calvert	5
St. Michaels town	Talbot	1
Salisbury city	Wicomico	1
San Mar CDP	Washington	6
Savage-Guilford CDP	Howard	3,7
Seat Pleasant city	Prince George's	4

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Secretary town	Dorchester	1
Selby-on-the-Bay CDP	Anne Arundel	5
Severn CDP	Anne Arundel	1-3
Severna Park CDP	Anne Arundel	1,3
Shady Side CDP	Anne Arundel	5
Sharpsburg town	Washington	6
Sharptown town	Wicomico	1
Silver Spring CDP	Montgomery	4,8
Smith Island CDP	Somerset	1
Smithsburg town	Washington	6
Snow Hill town	Worcester	1
Solomons CDP	Calvert	5
Somerset town	Montgomery	8
South Gate CDP	Anne Arundel	1,3
South Kensington CDP	Montgomery	8
South Laurel CDP	Prince George's	5
Springdale CDP	Prince George's	4
Stevensville CDP	Queen Anne's	1
Stockton CDP	Worcester	1
Sudlersville town	Queen Anne's	1
Suitland-Silver Hill CDP	Prince George's	4
Sykesville town	Carroll	6
Takoma Park city	Montgomery	8
Taneytown city	Carroll	6
Temple Hills CDP	Prince George's	4
Templeville town	Caroline	1
	Queen Anne's	1
Thurmont town	Frederick	6
Tilghman Island CDP	Talbot	1
Towson CDP	Baltimore	2,3
Trappe town	Talbot	1
Travilah CDP	Montgomery	8
Union Bridge town	Carroll	6
University Park town	Prince George's	5
Upper Marlboro town	Prince George's	5
Vienna town	Dorchester	1
Waldorf CDP	Charles	5
Walker Mill CDP	Prince George's	4
Walkersville town	Frederick	6
Washington Grove town	Montgomery	8
Westernport town	Allegany	6
West Laurel CDP	Prince George's	5
Westminster city	Carroll	6
West Ocean City CDP	Worcester	1
West Pocomoke CDP	Somerset	1
Whaleyville CDP	Worcester	1
Wheaton-Glenmont CDP	Montgomery	8
White Marsh CDP	Baltimore	1-3
White Oak CDP	Montgomery	4,8
Willards town	Wicomico	1
Williamsport town	Washington	6
Wilson-Conococheague CDP	Washington	6
Woodlawn CDP	Baltimore	7
Woodlawn CDP	Prince George's	4
Woodmore CDP	Prince George's	4,5
Woodsboro town	Frederick	6

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CENSUS REPORT FOR 2011 MARYLAND CONGRESSIONAL PLAN

MARYLAND CONGRESSIONAL DISTRICTS BY PLACE

Place	County/Independent City
Congressional District	
Aberdeen Proving Ground CDP	Harford
2	
Aberdeen city	Harford
1,2	
Accident town	Garrett
6	
Accokeek CDP	Prince George's
5	
Adamstown CDP	Frederick
6	
Adelphi CDP	Prince George's
4,5	
Algonquin CDP	Dorchester
1	
Allen CDP	Wicomico
1	
Andrews AFB CDP	Prince George's
4,5	
Annapolis Neck CDP	Anne Arundel
3,4	
Annapolis city	Anne Arundel
3	
Antietam CDP	Washington
6	
Aquasco CDP	Prince George's
5	
Arbutus CDP	Baltimore
3,7	
Arden on the Severn CDP	Anne Arundel
4	
Arnold CDP	Anne Arundel
4	
Ashton-Sandy Spring CDP	Montgomery
3	
Aspen Hill CDP	Montgomery
3,6,8	
Baden CDP	Prince George's
5	
Bagtown CDP	Washington
6	
Bakersville CDP	Washington
6	
Ballenger Creek CDP	Frederick
6,8	
Baltimore Highlands CDP	Baltimore
2	
Baltimore city	Baltimore
2,3,7	
Barclay town	Queen Anne's
1	
Barnesville town	Montgomery
6	
Barrelville CDP	Allegany
6	
Barton town	Allegany
6	
Bartonsville CDP	Frederick
8	
Beaver Creek CDP	Washington

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6	
Bel Air CDP	Allegany
6	
Bel Air North CDP	Harford
1	
Bel Air South CDP	Harford
1,2	
Bel Air town	Harford
1	
Beltsville CDP	Prince George's
4,5	
Benedict CDP	Charles
5	
Bensville CDP	Charles
5	
Berlin town	Worcester
1	
Berwyn Heights town	Prince George's
5	
Bethesda CDP	Montgomery
8	
Betterton town	Kent
1	
Bier CDP	Allegany
6	
Big Pool CDP	Washington
6	
Big Spring CDP	Washington
6	
Bishopville CDP	Worcester
1	
Bivalve CDP	Wicomico
1	
Bladensburg town	Prince George's
4	
Bloomington CDP	Garrett
6	
Boonsboro town	Washington
6	
Bowie city	Prince George's
4,5	
Bowleys Quarters CDP	Baltimore
2	
Bowling Green CDP	Allegany
6	
Bowmans Addition CDP	Allegany
6	
Braddock Heights CDP	Frederick
8	
Brandywine CDP	Prince George's
5	
Breathedsville CDP	Washington
6	
Brentwood town	Prince George's
4	
Brock Hall CDP	Prince George's
4,5	
Brookeville town	Montgomery
3	
Brooklyn Park CDP	Anne Arundel
2	
Brookmont CDP	Montgomery
8	
Brookview town	Dorchester
1	

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Broomes Island CDP	Calvert
5	
Brownsville CDP	Washington
6	
Brunswick city	Frederick
6	
Bryans Road CDP	Charles
5	
Bryantown CDP	Charles
5	
Buckeystown CDP	Frederick
6	
Burkittsville town	Frederick
8	
Burtonsville CDP	Montgomery
3	
Butlertown CDP	Kent
1	
Cabin John CDP	Montgomery
8	
California CDP	St. Mary's
5	
Calvert Beach CDP	Calvert
5	
Calverton CDP	Montgomery
3	
	Prince George's
4	
Cambridge city	Dorchester
1	
Camp Springs CDP	Prince George's
4,5	
Cape St. Claire CDP	Anne Arundel
3,4	
Capitol Heights town	Prince George's
4	
Carlos CDP	Allegany
6	
Carney CDP	Baltimore
1-3	
Catonsville CDP	Baltimore
7	
Cavetown CDP	Washington
6	
Cearfoss CDP	Washington
6	
Cecilton town	Cecil
1	
Cedarville CDP	Prince George's
5	
Centreville town	Queen Anne's
1	
Chance CDP	Somerset
1	
Charlestown town	Cecil
1	
Charlotte Hall CDP	St. Mary's
5	
Charlton CDP	Washington
6	
Chesapeake Beach town	Calvert
5	
Chesapeake City town	Cecil
1	
Chesapeake Ranch Estates CDP	Calvert

7

5	
Chester CDP	Queen Anne's
1	
Chestertown town	Kent
1	
Cheverly town	Prince George's
4	
Chevy Chase CDP	Montgomery
8	
Chevy Chase Section Five village	Montgomery
8	
Chevy Chase Section Three village	Montgomery
8	
Chevy Chase View town	Montgomery
8	
Chevy Chase Village town	Montgomery
8	
Chevy Chase town	Montgomery
8	
Chewsville CDP	Washington
6	
Chillum CDP	Prince George's
4	
Choptank CDP	Caroline
1	
Church Creek town	Dorchester
1	
Church Hill town	Queen Anne's
1	
Clarksburg CDP	Montgomery
6	
Clarysville CDP	Allegany
6	
Clear Spring town	Washington
6	
Clinton CDP	Prince George's
5	
Cloverly CDP	Montgomery
3,8	
Cobb Island CDP	Charles
5	
Cockeysville CDP	Baltimore
1,2,7	
Colesville CDP	Montgomery
3,8	
College Park city	Prince George's
5	
Colmar Manor town	Prince George's
4	
Columbia CDP	Howard
3,7	
Coral Hills CDP	Prince George's
4	
Cordova CDP	Talbot
1	
Corriganville CDP	Allegany
6	
Cottage City town	Prince George's
4	
Crellin CDP	Garrett
6	
Cresaptown CDP	Allegany
6	
Crisfield city	Somerset
1	

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Crofton CDP 4,5	Anne Arundel
Croom CDP 5	Prince George's
Crownsville CDP 4	Anne Arundel
Cumberland city 6	Allegany
Damascus CDP 6,8	Montgomery
Dames Quarter CDP 1	Somerset
Danville CDP 6	Allegany
Dargan CDP 6	Washington
Darlington CDP 1	Harford
Darnestown CDP 6	Montgomery
Dawson CDP 6	Allegany
Deal Island CDP 1	Somerset
Deale CDP 5	Anne Arundel
Deer Park town 6	Garrett
Delmar town 1	Wicomico
Denton town 1	Caroline
Derwood CDP 6	Montgomery
Detmold CDP 6	Allegany
District Heights city 4	Prince George's
Downsville CDP 6	Washington
Drum Point CDP 5	Calvert
Dundalk CDP 2	Baltimore
Dunkirk CDP 5	Calvert
Eagle Harbor town 5	Prince George's
Eakles Mill CDP 6	Washington
East New Market town 1	Dorchester
East Riverdale CDP 4,5	Prince George's
Easton town 1	Talbot
Eckhart Mines CDP 6	Allegany
Eden CDP 1	Somerset
Edesville CDP 1	Kent
Edgemere CDP 2	Baltimore
Edgemont CDP	Washington

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6 Edgewater CDP	Anne Arundel
4,5 Edgewood CDP	Harford
1,2 Edmonston town	Prince George's
4 Eldersburg CDP	Carroll
8 Eldorado town	Dorchester
1 Elkridge CDP	Howard
2,3,7 Elkton town	Cecil
1 Ellerslie CDP	Allegany
6 Ellicott City CDP	Howard
7 Elliott CDP	Dorchester
1 Emmitsburg town	Frederick
8 Ernstville CDP	Washington
6 Essex CDP	Baltimore
2 Fairland CDP	Montgomery
3 Fairlee CDP	Kent
1 Fairmount CDP	Somerset
1 Fairmount Heights town	Prince George's
4 Fairplay CDP	Washington
6 Fairview CDP	Washington
6 Fairwood CDP	Prince George's
4,5 Fallston CDP	Harford
1 Federalsburg town	Caroline
1 Ferndale CDP	Anne Arundel
2,3 Finzel CDP	Garrett
6 Fishing Creek CDP	Dorchester
1 Flintstone CDP	Allegany
6 Forest Glen CDP	Montgomery
8 Forest Heights town	Prince George's
4 Forestville CDP	Prince George's
4 Fort Meade CDP	Anne Arundel
2,3 Fort Ritchie CDP	Washington
6 Fort Washington CDP	Prince George's
4,5	

8

Fountainhead-Orchard Hills CDP	Washington
6	
Four Corners CDP	Montgomery
8	
Franklin CDP	Allegany
6	
Frederick city	Frederick
6,8	
Frenchtown-Rumbly CDP	Somerset
1	
Friendly CDP	Prince George's
5	
Friendship CDP	Anne Arundel
5	
Friendship Heights Village CDP	Montgomery
8	
Friendsville town	Garrett
6	
Frostburg city	Allegany
6	
Fruitland city	Wicomico
1	
Fulton CDP	Howard
3	
Funkstown town	Washington
6	
Gaithersburg city	Montgomery
6	
Galena town	Kent
1	
Galestown town	Dorchester
1	
Galesville CDP	Anne Arundel
5	
Gambrills CDP	Anne Arundel
4	
Gapland CDP	Washington
6	
Garrett Park town	Montgomery
8	
Garretts Mill CDP	Washington
6	
Garrison CDP	Baltimore
3	
Georgetown CDP	Kent
1	
Germantown CDP	Montgomery
6	
Gilmore CDP	Allegany
6	
Girdletree CDP	Worcester
1	
Glassmanor CDP	Prince George's
4	
Glen Burnie CDP	Anne Arundel
2-4	
Glen Echo town	Montgomery
8	
Glenarden city	Prince George's
4	
Glenmont CDP	Montgomery
8	
Glenn Dale CDP	Prince George's
4,5	
Golden Beach CDP	St. Mary's

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Goldsboro town	Caroline
1	
Gorman CDP	Garrett
6	
Grahamtown CDP	Allegany
6	
Grantsville town	Garrett
6	
Grasonville CDP	Queen Anne's
1	
Greenbelt city	Prince George's
5	
Greensboro town	Caroline
1	
Greensburg CDP	Washington
6	
Hagerstown city	Washington
6	
Halfway CDP	Washington
6	
Hampstead town	Carroll
1	
Hampton CDP	Baltimore
1,2	
Hancock town	Washington
6	
Havre de Grace city	Harford
2	
Hebron town	Wicomico
1	
Henderson town	Caroline
1	
Herald Harbor CDP	Anne Arundel
4	
Highfield-Cascade CDP	Washington
6	
Highland Beach town	Anne Arundel
3	
Highland CDP	Howard
3,7	
Hillandale CDP	Montgomery
3	
	Prince George's
4	
Hillcrest Heights CDP	Prince George's
4	
Hillsboro town	Caroline
1	
Hughesville CDP	Charles
5	
Huntingtown CDP	Calvert
5	
Hurlock town	Dorchester
1	
Hutton CDP	Garrett
6	
Hyattsville city	Prince George's
4,5	
Ilchester CDP	Howard
2,3,7	
Indian Head town	Charles
5	
Indian Springs CDP	Washington
6	

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Jarrettsville CDP	Harford
1	
Jefferson CDP	Frederick
6,8	
Jennings CDP	Garrett
6	
Jessup CDP	Anne Arundel
2	
	Howard
2	
Jesterville CDP	Wicomico
1	
Joppatowne CDP	Harford
1,2	
Jugtown CDP	Washington
6	
Keedysville town	Washington
6	
Kemp Mill CDP	Montgomery
8	
Kemps Mill CDP	Washington
6	
Kennedyville CDP	Kent
1	
Kensington town	Montgomery
8	
Kent Narrows CDP	Queen Anne's
1	
Kettering CDP	Prince George's
4	
Kingstown CDP	Queen Anne's
1	
Kingsville CDP	Baltimore
1	
Kitzmiller town	Garrett
6	
Klondike CDP	Allegany
6	
Konterra CDP	Prince George's
4,5	
La Plata town	Charles
5	
La Vale CDP	Allegany
6	
Lake Arbor CDP	Prince George's
4	
Lake Shore CDP	Anne Arundel
3,4	
Landover CDP	Prince George's
4	
Landover Hills town	Prince George's
4	
Langley Park CDP	Prince George's
4	
Lanham CDP	Prince George's
4,5	
Lansdowne CDP	Baltimore
3	
Largo CDP	Prince George's
4	
Laurel city	Prince George's
4	
Layhill CDP	Montgomery
8	
Laytonsville town	Montgomery

8

6,8	
Leisure World CDP	Montgomery
8	
Leitersburg CDP	Washington
6	
Leonardtown town	St. Mary's
5	
Lexington Park CDP	St. Mary's
5	
Libertytown CDP	Frederick
8	
Linganore CDP	Frederick
6,8	
Linthicum CDP	Anne Arundel
2,3	
Little Orleans CDP	Allegany
6	
Loch Lynn Heights town	Garrett
6	
Lochearn CDP	Baltimore
2,7	
Lonaconing town	Allegany
6	
Long Beach CDP	Calvert
5	
Luke town	Allegany
6	
Lusby CDP	Calvert
5	
Lutherville CDP	Baltimore
2	
Madison CDP	Dorchester
1	
Manchester town	Carroll
1	
Mapleville CDP	Washington
6	
Mardela Springs town	Wicomico
1	
Marlboro Meadows CDP	Prince George's
5	
Marlboro Village CDP	Prince George's
4,5	
Marlow Heights CDP	Prince George's
4	
Marlton CDP	Prince George's
5	
Martin's Additions village	Montgomery
8	
Marydel town	Caroline
1	
Maryland City CDP	Anne Arundel
2-4	
Maugansville CDP	Washington
6	
Mayo CDP	Anne Arundel
5	
Mays Chapel CDP	Baltimore
2,3,7	
McCoole CDP	Allegany
6	
Mechanicsville CDP	St. Mary's
5	
Melwood CDP	Prince George's
5	

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Mercersville CDP	[redacted]	Washington
6		
Middle River CDP		Baltimore
2		
Middleburg CDP	[redacted]	Washington
6		
Middletown town		Frederick
8		
Midland town	[redacted]	Allegany
6		
Midlothian CDP	[redacted]	Allegany
6		
Milford Mill CDP		Baltimore
2,7		
Millington town		Kent
1		
		Queen Anne's
1		
Mitchellville CDP		Prince George's
4		
Monrovia CDP		Frederick
8		
Montgomery Village CDP	[redacted]	Montgomery
6		
Morningside town		Prince George's
4		
Moscow CDP	[redacted]	Allegany
6		
Mount Aetna CDP	[redacted]	Washington
6		
Mount Airy town		Carroll
8		
		Frederick
8		
Mount Briar CDP	[redacted]	Washington
6		
Mount Lena CDP	[redacted]	Washington
6		
Mount Rainier city		Prince George's
4		
Mount Savage CDP	[redacted]	Allegany
6		
Mount Vernon CDP		Somerset
1		
Mountain Lake Park town	[redacted]	Garrett
6		
Myersville town		Frederick
8		
Nanticoke Acres CDP		Wicomico
1		
Nanticoke CDP		Wicomico
1		
National CDP	[redacted]	Allegany
6		
National Harbor CDP		Prince George's
4		
Naval Academy CDP		Anne Arundel
3		
New Carrollton city		Prince George's
4,5		
New Market town		Frederick
8		
New Windsor town		Carroll
8		
Newark CDP		Worcester

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1	
Rikep CDP	Allegany
6	
North Beach town	Calvert
5	
North Bethesda CDP	Montgomery
8	
North Brentwood town	Prince George's
4	
North Chevy Chase village	Montgomery
8	
North East town	Cecil
1	
North Kensington CDP	Montgomery
8	
North Laurel CDP	Howard
2	
North Potomac CDP	Montgomery
6,8	
Oakland town	Garrett
6	
Ocean CDP	Allegany
6	
Ocean City town	Worcester
1	
Ocean Pines CDP	Worcester
1	
Odenton CDP	Anne Arundel
2-4	
Oldtown CDP	Allegany
6	
Olney CDP	Montgomery
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2,3	
Owings CDP	Calvert
5	
Owings Mills CDP	Baltimore
2,3	
Oxford town	Talbot
1	
Oxon Hill CDP	Prince George's
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6	
Parkville CDP	Baltimore
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Parole CDP	Anne Arundel
3,4	
Parsonsburg CDP	Wicomico
1	
Pasadena CDP	Anne Arundel
3,4	
Pecktonville CDP	Washington
6	
Peppermill Village CDP	Prince George's
4	
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1-3	
Perryman CDP	Harford
2	
Perryville town	Cecil
1	
Pikesville CDP	Baltimore
2,3	

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Pinesburg CDP	Washington
6	
Piney Point CDP	St. Mary's
5	
Pittsville town	Wicomico
1	
Pleasant Grove CDP	Allegany
6	
Pleasant Hills CDP	Harford
1	
Pocomoke City city	Worcester
1	
Point of Rocks CDP	Frederick
6	
Pomfret CDP	Charles
5	
Pondsville CDP	Washington
6	
Poolesville town	Montgomery
6	
Port Deposit town	Cecil
1	
Port Tobacco Village town	Charles
5	
Potomac CDP	Montgomery
6,8	
Potomac Heights CDP	Charles
5	
Potomac Park CDP	Allegany
6	
Powellville CDP	Wicomico
1	
Preston town	Caroline
1	
Prince Frederick CDP	Calvert
5	
Princess Anne town	Somerset
1	
Pylesville CDP	Harford
1	
Quantico CDP	Wicomico
1	
Queen Anne CDP	Prince George's
5	
Queen Anne town	Queen Anne's
1	
	Talbot
1	
Queenland CDP	Prince George's
5	
Queenstown town	Queen Anne's
1	
Randallstown CDP	Baltimore
2,3,7	
Rawlings CDP	Allegany
6	
Redland CDP	Montgomery
6,8	
Reid CDP	Washington
6	
Reisterstown CDP	Baltimore
2,7	
Ridgely town	Caroline
1	
Ringgold CDP	Washington

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Rising Sun town	Cecil
1	
Riva CDP	Anne Arundel
4	
Riverdale Park town	Prince George's
4,5	
Riverside CDP	Harford
2	
Riviera Beach CDP	Anne Arundel
3,4	
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6	
Rock Hall town	Kent
1	
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5	
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Rosemont village	Frederick
6	
Rossville CDP	Baltimore
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Sabillasville CDP	Frederick
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Salisbury city	Wicomico
1	
San Mar CDP	Washington
6	
Sandy Hook CDP	Washington
6	
Savage CDP	Howard
2	
Scaggsville CDP	Howard
2,3	
Seabrook CDP	Prince George's
4,5	
Seat Pleasant city	Prince George's
4	
Secretary town	Dorchester
1	
Severn CDP	Anne Arundel
2-4	
Severna Park CDP	Anne Arundel
4	
Shady Side CDP	Anne Arundel
5	
Shaft CDP	Allegany
6	
Sharpsburg town	Washington
6	
Sharptown town	Wicomico
1	
Silver Hill CDP	Prince George's
4	
Silver Spring CDP	Montgomery
3,8	
Smith Island CDP	Somerset
1	

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Smithsburg town	Washington
6	
Snow Hill town	Worcester
1	
Solomons CDP	Calvert
5	
Somerset town	Montgomery
8	
South Kensington CDP	Montgomery
8	
South Laurel CDP	Prince George's
4,5	
Spencerville CDP	Montgomery
3	
Spring Gap CDP	Allegany
6	
Spring Ridge CDP	Frederick
8	
Springdale CDP	Prince George's
4	
St. George Island CDP	St. Mary's
5	
St. James CDP	Washington
6	
St. Leonard CDP	Calvert
5	
St. Michaels town	Talbot
1	
Stevensville CDP	Queen Anne's
1	
Stockton CDP	Worcester
1	
Sudlersville town	Queen Anne's
1	
Suitland CDP	Prince George's
4	
Summerfield CDP	Prince George's
4	
Swanton CDP	Garrett
6	
Sykesville town	Carroll
8	
Takoma Park city	Montgomery
8	
Tall Timbers CDP	St. Mary's
5	
Taneytown city	Carroll
1	
Taylors Island CDP	Dorchester
1	
Temple Hills CDP	Prince George's
4	
Templeville town	Caroline
1	
	Queen Anne's
1	
Thurmont town	Frederick
8	
Tilghman Island CDP	Talbot
1	
Tilghmanton CDP	Washington
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Timonium CDP	Baltimore
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Tolchester CDP	Kent

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1 Towson CDP	Baltimore
2,3 Trappe town	Talbot
1 Travilah CDP	Montgomery
6,8 Trego-Rohrersville Station CDP	Washington
6 Tyaskin CDP	Wicomico
1 Union Bridge town	Carroll
8 University Park town	Prince George's
5 Upper Marlboro town	Prince George's
5 Urbana CDP	Frederick
6 Vale Summit CDP	Allegany
6 Vienna town	Dorchester
1 Waldorf CDP	Charles
5 Walker Mill CDP	Prince George's
4 Walkersville town	Frederick
8 Washington Grove town	Montgomery
6 Waterview CDP	Wicomico
1 West Denton CDP	Caroline
1 West Laurel CDP	Prince George's
4 West Ocean City CDP	Worcester
1 West Pocomoke CDP	Somerset
1 Westernport town	Allegany
6 Westminster city	Carroll
8 Westphalia CDP	Prince George's
4,5 Whaleyville CDP	Worcester
1 Wheaton CDP	Montgomery
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1-3 White Oak CDP	Montgomery
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1 Willards town	Wicomico
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6 Williston CDP	Caroline
1 Wilson-Conococheague CDP	Washington
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6	
Woodlawn CDP	Baltimore
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	Prince George's
4,5	
Woodmore CDP	Prince George's
4,5	
Woodsboro town	Frederick
8	
Worton CDP	Kent
1	
Yarrowsburg CDP	Washington
6	
Zihlman CDP	Allegany
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Representative in Congress

Congressional District 6

	Jennifer P. Dougherty Democratic	Roscoe Bartlett Republican ✔	Gary W. Hoover, Sr. Libertarian	Other Write-Ins WA
Allegany	10,478	17,088	810	14
Baltimore	8,128	11,110	688	17
Carroll	28,162	51,008	2,484	98
Frederick	47,797	55,789	3,837	142
Garrett	3,883	8,446	254	2
Harford	5,008	10,186	685	25
Montgomery	4,884	5,024	201	11
Washington	24,277	32,278	2,333	37
Totals	128,207 (39.8%)	190,929 (57.9%)	11,080 (3.3%)	343 (.1%)